

Illustration.

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

43. Where by any permanent change in the dominant heritage the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

(a) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used; or

(b) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it; or

(c) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement:

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage; and the provisions of section fourteen apply to such way.

Illustrations.

(a) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(b) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

Illustration.

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Illustrations.

(a) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(b) The dominant owner acquires only part of the servient heritage: the easement is not extinguished, except in the case illustrated in section forty-one.

(c) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.

(d) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages: the easements are not extinguished.

(e) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(f) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(g) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner.

Provided that if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877, a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

(a) where the cessation is in pursuance of a contract between the dominant and servient owners;

(b) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period, or

(c) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

Illustration.

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

Illustration.

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section forty-seven. The right of way is also extinguished.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Suspension of easement.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section twenty-six, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

Compensation for damage caused by extinguishment.

Illustration.

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

51. An easement extinguished under section forty-five revives (a) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (b) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and (c) when the destroyed heritage is a dominant building and before twenty years have expired such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

An easement extinguished under section forty-six revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section forty-seven.

Illustration.

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

CHAPTER VI.—LICENSES.

52. Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable proper-

"License" defined.

ty of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

Who may grant license.

54. The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

Grant may be express or implied.

55. All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

Accessory licenses annexed by law.

Illustration.

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

56. Unless a different intention is expressed or necessarily implied, a license when transferable to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants, or agents.

Illustrations.

(a) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immoveable property of B. The right cannot be transferred.

(b) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

57. The grantor of a license is bound to disclose to the licensee any defects in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware.

58. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

Grantor's transferee not bound by license.

60. A license may be revoked by the grantor, unless—

(a) it is coupled with a transfer of property and such transfer is in force;

(b) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

61. The revocation of a license may be express or implied.

Revocation-express or implied.

Illustrations.

(a) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(b) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

License when deemed revoked. **62. A license is deemed to be revoked—**

(a) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license:

(b) when the licensee releases it, expressly or impliedly, to the grantor or his representative:

(c) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires, or the condition is fulfilled:

(d) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right:

(e) where the licensee becomes entitled to the absolute ownership of the property affected by the license:

(f) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable:

(g) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist:

(h) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee:

(i) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

63. Where a license is revoked, the licensee is
Licensee's rights on revocation. entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

64. Where a license has been granted for a con-
Licensee's rights on eviction. sideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1882, and is hereby promulgated for General information :—

ACT No. VI of 1882.
THE INDIAN COMPANIES ACT,
1882.

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FIRST SCHEDULE.

SECOND SCHEDULE.

An Act for the incorporation, regulation and winding-up of Trading Companies and other Associations.

WHEREAS it is expedient to amend the law relating to the incorporation, regulation and winding-up of Trading Companies and other Associations; It is hereby enacted as follows:

PRELIMINARY.

1. This Act may be cited as "The Indian Companies Act, 1882":
 Short title. it extends to the whole of
 Local extent. British India:
 it shall come into force on the first day of May,
 Commencement. 1882; and the time at which
 it comes into force is herein-
 after referred to as the commencement of this Act.
2. On and from the commencement of this Act, the Indian Companies Act, 1866, shall be repealed. But such repeal shall not affect—
 (a) the incorporation of any Company registered under the said Act or any Act thereby repealed;
 (b) any right or privilege acquired or liability incurred under the said Act or any Act thereby repealed;
 (c) table B in the schedule annexed to Act No. XIX of 1857 or any part thereof, so far as the same applies to any Company existing at the time of the commencement of this Act.
 And all references to the said Indian Companies Act, 1866, in Acts or Regulations passed before the commencement of this Act shall be read as if made to this Act, and all rules made, fees directed, resolutions passed and other things duly done under the same Act shall be deemed to be respectively made, directed, passed and done under this Act; and all Companies under the same Act shall be deemed to be Companies under this Act.

3. In this Act, unless there be something repugnant in the subject or context,—
 Interpretation-clause.

"Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses;

"Court" means the principal civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction;

"District Court" means the principal civil Court of original jurisdiction in a district, but does not include the High Court in the exercise of its ordinary original civil jurisdiction.

4. No Company, Association or Partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor General in Council, or by royal charter or Letters Patent; and no Company, Association or Partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

5. This Act is divided into nine Parts, relating to the following subject-matters:—
 Division of Act.

The first Part—to the constitution and incorporation of Companies and Associations under this Act;

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act;

The third Part—to the management and administration of Companies and Associations under this Act;

The fourth Part—to the winding-up of Companies and Associations under this Act;

The fifth Part—to the registration-office;

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations either with or without limited liability of the members thereof*), and Act No. VII of 1860 (*to enable Joint Stock Banking Companies to be formed on the principle of limited liability*), or either of them;

The seventh Part—to Companies authorized to register under this Act;

The eighth Part—to the application of this Act to unregistered Companies;

The ninth Part—to miscellaneous provisions.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

6. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated Company, with or without limited liability.

Explanation.—Foreigners are persons within the meaning of this section, although the whole or any part of the business of the proposed Company is intended to be transacted out of British India.

7. The liability of the members of a Company formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Where a Company is formed as a Limited Company, the liability of the directors or managers of such Company, or of the managing director, may, if so provided by the memorandum of association, be unlimited.

8. Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company with the addition of the word "limited" as the last word in such name;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established;

(d) a declaration that the liability of the members is limited;

(e) the amount of capital with which the Company proposes to be registered divided into shares of a certain fixed amount:

Subject to the following regulations:—

(f) that no subscriber shall take less than one share;

(g) that each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

9. Where a Company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up (hereinafter referred to as a Company limited by guarantee), the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company, with the addition of the word "limited" as the last word in such name;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established

(d) a declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding a specified amount.

10. Where a Company is formed on the principle of having no limit placed on the liability of its members (hereinafter referred to as an unlimited Company), the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established.

11. The memorandum of association shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in the memorandum contained, on the part of himself, his heirs, executors and administrators, a contract to observe all the conditions of such memorandum subject to the provisions of this Act.

12. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by special resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid up shares into stock; but, save as aforesaid, and save as hereinafter provided, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

Reduction of Capital and Shares.

13. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital; but no such resolution for reducing the capital of any Company shall come into operation until an order of the Court is registered by the Registrar of joint stock Companies, as is hereinafter mentioned.

Explanation I.—The word “capital” includes paid up capital.

Explanation II.—The power to reduce capital conferred by this section includes a power to cancel any lost capital, or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the Company; and paid up capital may be reduced either with or without extinguishing or reducing the liability (if any) remaining on the shares of the Company; and, to the extent to which such liability is not extinguished or reduced, it shall be deemed to be preserved, notwithstanding anything hereinafter contained.

14. The Company shall, after the date of the passing of any special resolution for reducing its capital, add to its name, until such date as the Court may fix, the words “and reduced,” as the last words in its name, and those words shall, until such date, be deemed to be part of the name of the Company.

Company to add “and reduced” to its name for a limited period.

15. A Company which has passed a special resolution for reducing its capital may apply to the Court by petition for an order confirming the reduction, and, on the hearing of the petition, the Court, if satisfied that, with respect to every creditor of the Company who, under the provisions of this Act, is entitled to object to the reduction, either his consent to the reduction has been obtained, or his debt or claim has been discharged or has determined, or has been secured as hereinafter provided, may make an order confirming the reduction on such terms and subject to such conditions as it deems fit.

Company to apply to the Court for an order confirming reduction.

When the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction; and it shall not be necessary, before the presentation of any petition under this section, to add, and the Court may, if it thinks fit so to do, dispense with the addition of, the words “and reduced,” as mentioned in section fourteen.

In any case that the Court thinks fit so to do, it may require the Company to publish, in such manner as the Court thinks fit, the reasons for the reduction or such other information regarding the same as the Court may think expedient with a view to give proper information to the public in relation to such reduction, and if the Court thinks fit, the cause which led thereto.

16. Where a Company proposes to reduce its capital, every creditor of the Company who, at the date fixed by the Court, is entitled to any debt or claim which, if that date were the commencement of the winding-up of the Company, would be admissible in proof against the Company, shall be entitled to object to the proposed reduction, and to be entered

Creditors may object to reduction, and list of objecting creditors to be settled by Court.

in the list of creditors who are so entitled to object.

The Court shall settle a list of such creditors, and for that purpose shall ascertain as far as possible, without requiring an application from any creditor, the names of such creditors and the nature and amount of their debts or claims, and may publish notices fixing a certain day or days within which creditors of the Company who are not entered on the list are to claim to be so entered, or to be excluded from the right of objecting to the proposed reduction:

Provided that, when the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction.

17. Where a creditor whose name is entered on the list of creditors, and whose debt or claim is not discharged or determined, does not consent to the proposed reduction, the Court may (if it thinks fit) dispense with such consent on the Company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the Court may direct a sum of such amount as is hereinafter mentioned (that is to say):—

Court may dispense with consent of creditor on security being given for his debt.

(a) If the full amount of the debt or claim of the creditor is admitted by the Company, or, though not admitted, is such as the Company are willing to set apart and appropriate, then the full amount of the debt or claim shall be set apart and appropriated.

(b) If the full amount of the debt or claim of the creditor is not admitted by the Company, and is not such as the Company are willing to set apart and appropriate, or if the amount is contingent or not ascertained, then the Court may, if it thinks fit, inquire into and adjudicate upon the validity of such debt or claim, and the amount for which the Company may be liable in respect thereof, in the same manner as if the Company were being wound up by the Court; and the amount fixed by the Court on such inquiry and adjudication shall be set apart and appropriated.

18. The Registrar of joint stock Companies, upon the production to him of an order of the Court confirming the reduction of the capital of a Company, and the delivery to him of a copy of the order and of a minute (approved by the Court), showing, with respect to the capital of the Company as altered by the order, the amount of such capital, the number of shares in which it is to be divided, and the amount of each share, and the amount (if any) at the date of the registration of the minute proposed to be deemed to have been paid up on each share, shall register the order and minute; and, on the registration, the special resolution confirmed by the order so registered shall take effect.

Order and minute to be registered.

Notice of such registration shall be published in such manner as the Court may direct.

The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to the reduction of capital have been complied with, and that the capital of the Company is such as is stated in the minute.

19. The minute, when registered, shall be deemed to be substituted for the corresponding part of the memorandum of association of the Company, and shall be of the same validity; and subject to the same alterations, as if it had been originally contained in the memorandum of association; and, subject as in this Act mentioned, no member of the Company, whether past or present, shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the minute.

20. If any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a Company under this Act is, in consequence of his ignorance of the proceedings taken with a view to such reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and after such reduction the Company is unable, within the meaning of this Act, to pay to the creditor the amount of such debt or claim, every person who was a member of the Company at the date of the registration of the order and minute relating to the reduction of its capital shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the Company had commenced to be wound up on the day prior to such registration;

and, on the Company being wound up, the Court, on the application of such creditor, and on proof that he was ignorant of the proceedings taken with a view to the reduction, or of their nature and effect with respect to his claim, may, if it thinks fit, settle a list of such contributories accordingly, and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories of the Company among themselves.

21. A minute, when registered, shall be embodied in every copy of the memorandum of association issued after its registration; and, if any Company makes default in complying with the provisions of this section, it shall incur a penalty not exceeding ten rupees for each copy in respect of which such default is made; and every director and manager of the Company who know-

ingly and wilfully authorizes or permits such default shall incur the like penalty.

22. If any director, manager or officer of the Company wilfully conceals the name of any creditor of the Company who is entitled to object to the proposed reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the Company, or if any director or manager of the Company abets, within the meaning of the Indian Penal Code, any such concealment or misrepresentation as aforesaid, every such director, manager or officer shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

23. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as to reduce its capital by cancelling any shares which, at the date of passing such resolution, have not been taken or agreed to be taken by any persons; and the provisions as to reduction of capital contained in the other sections of this Act shall not apply to any reduction made in pursuance of this section.

Sub-division of Shares.

24. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as, by sub-division of its existing shares or any of them, to divide its capital, or any part thereof, into shares of smaller amount than is fixed by its memorandum of association:

Provided that, in the sub-division of the existing shares, the proportion between the amount which is paid and the amount (if any) which is unpaid on each share of reduced amount shall be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived.

25. The statement of the number and amount of the shares into which the capital of the Company is divided, contained in every copy of the memorandum of association issued after the passing of any such special resolution, shall be in accordance with such resolution; and any Company which makes default in complying with the provisions of this section shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly or wilfully authorizes or permits such default shall incur the like penalty.

Associations not for Profit.

26. Where any association which might be formed under this Act as a limited Company proves to the Local Government that

it is formed for the purpose of promoting commerce, art, science, charity, or any other useful object, and that it is the intention of such association to apply the profits, if any, or other income of the association, in promoting its objects, and to prohibit the payment of any dividend to its members, the Local Government may, by license under the hand of one of its Secretaries, direct such association to be registered with limited liability, without the addition of the word "limited" to its name; and such association may be registered accordingly, and upon registration shall enjoy all the privileges and be subject to the obligations by this Act imposed on limited Companies; with the exceptions that none of the provisions of this Act that require a limited Company to use the word "limited" as any part of its name, or to publish its name, or to send a list of its members, directors, or managers to the Registrar, shall apply to an association so registered.

The license by the Local Government may be granted upon such conditions and subject to such regulations as the Local Government thinks fit to impose; and such conditions and regulations shall be binding on the association, and may at the option of the Local Government be inserted in the memorandum and articles of association, or in both or one of such documents.

Calls upon Shares.

27. Nothing herein contained shall be deemed to prevent any Company under this Act, if authorized by its regulations as originally framed or as altered by special resolution, from doing any one or more of the following things, namely:—

(a) making arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid, and in the time of payment of such calls;

(b) accepting from any member of the Company who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him, either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made;

(c) paying dividend in proportion to the amount paid up on each share in cases where a larger amount is paid up on some shares than on others.

28. Every share in any Company shall be deemed

Manner in which shares are to be issued and held. ed and taken to have been issued and to be held subject to the payment of the whole amount thereof in cash, unless the same has been otherwise determined by a contract duly made in writing and filed with the Registrar of joint stock Companies at or before the issue of such shares.

Transfer of Shares.

29. A Company shall, on the application of the transferor of any share or interest in the Company, enter in its register of mem-

bers the name of the transferee of such share or interest in the same manner and subject to the same conditions as if the application for such entry were made by the transferee.

Share-warrants to Bearer.

30. In the case of a Company limited by shares, the Company, if authorized so to do by its regulations as originally framed or as altered by special resolution, and subject to the provisions of such regulations, may, with respect to any share which is fully paid up, or with respect to stock, issue under their common seal a warrant (hereinafter referred to as a share-warrant) stating that the bearer thereof is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on such shares or stock.

31. A share-warrant shall entitle the bearer thereof to the shares or stock specified therein; and such shares or stock may be transferred by the delivery of the share-warrant.

32. The bearer of a share-warrant shall, subject to the regulations of the Company, be entitled, on surrendering such warrant for cancellation, to have his name entered as a member in the register of members; and the Company shall be responsible for any loss incurred by any person by reason of the Company entering in its register of members the name of any bearer of a share-warrant in respect of the shares or stock specified therein without the share-warrant being surrendered and cancelled.

33. The bearer of a share-warrant may, if the Regulations of the Company may make the bearer of a share-warrant a member, so provide, be deemed to be a member of the Company within the meaning of this Act, either to the full extent or for such purposes as may be prescribed by the regulations:

Provided that the bearer of a share-warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a direct- or manager of the Company in cases where such a qualification is prescribed by the regulations of the Company.

34. On the issue of a share-warrant in respect of any share or stock, the Company shall strike out of its register of members the name of the member then entered therein as holding such share or stock, as if he had ceased to be a member, and shall enter in the register the following particulars:—

- (a) the fact of the issue of the warrant;
- (b) a statement of the shares or stock included in the warrant, distinguishing each share by its number;
- (c) the date of the issue of the warrant.

35. There shall be charged on every share-warrant a stamp-duty of an amount equal to three times the amount of the *ad valorem* stamp-duty which would be chargeable on an instrument transferring the shares or stock specified in the warrant if the consideration for the transfer were the nominal value of such shares or stock.

If a share-warrant is issued without being duly stamped, the Company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the Company, shall forfeit the sum of five hundred rupees.

Change of Name.

36. Any Company under this Act, with the sanction of a special resolution of the Company passed in manner hereinafter mentioned, and with the approval of the Local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Explanation.—The issue of the certificate of incorporation is necessary to complete the change of name.

Articles of Association.

37. The memorandum of association may, in the case of a Company limited by shares, and shall, in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by articles of association signed by the subscribers to the memorandum of association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient.

The articles shall be expressed in separate paragraphs, numbered consecutively. They may adopt all or any of the provisions contained in the table marked A in the first schedule hereto. They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company proposes to be registered, and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the

purpose of enabling the Registrar to determine the fees payable on registration.

In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

38. In the case of a Company limited by shares, if the memorandum of association is not accompanied by articles of association, or, in so far as the articles do not exclude or modify the regulations contained in the table marked A in the first schedule hereto, the last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company, in the same manner and to the same extent as if they had been inserted in articles of association and the articles had been duly registered.

39. The articles of association shall be printed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least.

When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto and as if such articles contained a contract on the part of himself, his heirs, executors and administrators to conform to all the regulations contained in such articles subject to the provisions of this Act.

All monies payable by any member to the Company in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General Provisions.

40. The memorandum of association, and the articles of association, if any, shall be delivered to the Registrar of joint stock Companies hereinafter mentioned, who shall retain and register the same. It is not his duty to require evidence as to whether the several subscribers to a memorandum of association so delivered are competent to contract.

There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the table marked B in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the table marked C in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct.

All fees paid to the said Registrar in pur-

suance of this Act shall be accounted for to Government.

41. Upon the registration of the memorandum of association, and of the articles of association in cases where articles of association are required by this Act or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a limited Company that the Company is limited: the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company, in the event of the same being wound up, as is hereinafter mentioned.

A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

42. A copy of the memorandum of association, having annexed thereto the articles of association, if any, shall be forwarded to every member, at his request, on payment of such sum, not exceeding one rupee, as may be prescribed by the Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and articles of association, if any, to a member in pursuance of this section, the Company so making default shall for each such offence incur a penalty not exceeding twenty rupees.

43. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires.

If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the sanction of the Registrar, change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or

commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

44. The shares or other interest of any member in a Company under this Act shall be moveable property, capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate or immoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

45. The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration of the Company shall be entered as members on the register of members hereinafter mentioned; and every other person who has agreed with a Company under this Act to become a member of such Company, and whose name is entered on the register of members, shall be deemed to be a member of the Company.

46. Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

47. Every Company under this Act shall cause to be kept in one or more books a register of its members, and there shall be entered therein the following particulars:—

(a) the names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(b) the date at which the name of any person was entered in the register as a member;

(c) the date at which any person ceased to be a member.

Where a share-warrant has been issued under section thirty, until the warrant is surrendered, the particulars mentioned in section thirty-four

shall be deemed to be the particulars which are required by this section to be entered in the register of members of a Company; and, on the surrender of a warrant, the date of such surrender shall be entered as if it were the date at which a person ceased to be a member.

Any Company acting in contravention of this section shall incur a penalty not exceeding fifty rupees for every day during which its default in complying with the provisions of this section continues, and every director or manager of the Company who knowingly and wilfully authorizes or permits such contravention shall incur the like penalty.

48. Every Company under this Act and having a capital divided into shares shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting, or, if there is more than one ordinary general meeting in each year, the first of such ordinary general meetings, is held, are members of the Company. Such list shall state the names, addresses and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:—

- (a) the amount of the capital of the Company and the number of shares into which it is divided;
- (b) the number of shares taken from the commencement of the Company up to the date of the summary;
- (c) the amount of calls made on each share;
- (d) the total amount of calls received;
- (e) the total amount of calls unpaid;
- (f) the total amount of shares forfeited;
- (g) the names, addresses and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the register, and shall be completed within seven days after such fourteenth day as is mentioned in this section; and a copy shall forthwith be forwarded to the Registrar of joint stock Companies.

49. After the issue by the Company of a share-warrant, the annual summary required by section forty-eight shall contain the following particulars (namely):—the total amount of shares or stock for which share-warrants are outstanding at the date of the summary, and the total amount of share-warrants which have been issued and surrendered respectively since the last summary was made, and the number of shares or amount of stock comprised in each warrant.

50. If any Company under this Act and having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of mem-

bers or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

51. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall, within fifteen days of such consolidation, division or conversion, give notice to the Registrar of joint stock Companies of the same, specifying the shares so consolidated, divided or converted.

52. Where any Company under this Act and having a capital divided into shares has converted any portion of its capital into stock and given notice of such conversion to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the register of members hereby required to be kept by the Company and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list, instead of the amount of shares and the particulars relating to shares hereinbefore required.

53. No notice of any trust, express, implied or constructive, shall be entered on the register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

54. A certificate under the common seal of the Company, specifying any shares or stock held by any member of a Company, shall be *prima facie* evidence of the title of the member to the share or shares or stock therein specified.

55. The register of members, commencing from the date of the registration of the Company, shall be kept at the registered office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in general meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee, or such less sum as the Company may prescribe, for each inspection.

Every such member or other person may require a copy of such register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied.

If such inspection or copy is refused, the Com-

pany shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

Every director and manager of the Company who knowingly authorizes or permits such refusal shall incur the like penalty.

In addition to the above penalty any Judge of a High Court may by order compel an immediate inspection of the register.

56. Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating in the district in which the registered office of the Company is situate and in the local official Gazette, close the register of members for any time or times not exceeding in the whole thirty days in each year.

57. Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and where a Company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital, within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and in the case of an increase of members, within fifteen days from the time at which such increase of members has been resolved on or has taken place; and the Registrar shall forthwith record the amount of such increase of capital or members.

If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day during which such neglect to give notice continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

58. If the name of any person is fraudulently or without sufficient cause entered in, or omitted from, the register of members kept by any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original civil jurisdiction in the district or place in which the registered office of the Company is situate, apply for an order of the Court that the register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained.

The Court may in any proceeding under this section decide any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and whether there has or has not been default on the part of the Company; and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the register: Provided that the Court may direct an issue to be tried in which any question of law may be raised; and an appeal in the manner directed by the Code of Civil Procedure shall lie.

59. Whenever any order has been made for rectifying the register in the case of a Company hereby required to send a list of its members to the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

60. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Liability of Members.

61. In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company and the costs, charges and expenses of the winding-up, and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following, (that is say) :—

(a) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up:

(b) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

(c) No past member shall be liable to contribute to the assets of the Company unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(d) In the case of a Company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(e) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking

entered into on his behalf by the memorandum of association :

(f) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract :

(g) No sum due to any member of a Company in his character of a member, by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

Explanation I.—The liability of past members is a liability to contribute to the general assets of the Company, against which assets creditors (at whatever time their debts may have been contracted) have equal rights.

Explanation II.—In estimating the debts to which a past member is liable, all dividends paid on these debts under the winding-up must be deducted.

62. With respect to the contributions to be required in the event of the winding-up of a limited Company from any director or manager whose liability is unlimited, the following modifications shall be made in the last preceding section :—

(a) Subject to the provisions hereinafter contained, any such director or manager, whether past or present, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to contribute as if he were at the date of the commencement of such winding-up a member of an unlimited Company :

(b) No contribution required from any past director or manager who has ceased to hold such office for a period of one year or upwards prior to the commencement of the winding-up shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company :

(c) No contribution required from any past director or manager in respect of any debt or liability of the Company contracted after the time at which he ceased to hold such office shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company :

(d) Subject to the provisions contained in the regulations of the Company, no contribution required from any director or manager shall exceed the amount (if any) which he is liable to contribute as an ordinary member, unless the Court thinks it necessary to require such contribution in order to satisfy the debts and liabilities of the Company, or the costs, charges and expenses of the winding-up.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

63. Every Company under this Act shall have a registered office of communications and notices may be addressed. If any Company under this Act carries on business without having such an office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

64. Notice of the situation of such registered office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered office.

65. Every limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible, in the English language, and also, if the registered office be situate in a district beyond the local limits of the ordinary original civil jurisdiction of a High Court, in one of the vernacular languages used in such district, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements and other official publications of such Company, and in all bills of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

66. If any limited Company under this Act does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed.

Every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to the like penalty.

If any director, manager or officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company any bill

of exchange, hundi, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the Company.

Contracts.

67. Contracts on behalf of any Company under this Act may be made as follows (that is to say):—

(a) Any contract, which if made between private persons would be by law required to be in writing, and, if made according to English law, to be under seal, may be made on behalf of the Company in writing under the common seal of the Company; and such contract may be in the same manner varied or discharged:

(b) Any contract, which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company; and such contract may in the same manner be varied or discharged:

(c) Any contract, which if made between private persons would be by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company; and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

68. Every limited Company under this Act shall keep a register of all mortgages and charges specifically affecting property of the Company, and shall enter in such register, in respect of each mortgage or charge, a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge.

If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every director, manager or other officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees.

The register of mortgages required by this section shall be open to inspection by any creditor or member of the Company at all reasonable times.

If such inspection is refused, any officer of the Company refusing the same, and every director and manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

The High Court or any Judge thereof may by order compel the performance of the duty imposed by this section on a limited Company, and in addition to the above penalty may by order compel an immediate inspection of the register.

Explanation.—Omission to register under this section a mortgage or charge does not render the same invalid. But the officers of the Company cannot avail themselves as such of a mortgage or charge specifically affecting property of the Company and not so registered.

69. Every limited banking Company, and every insurance Company, and every deposit, provident or benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first schedule hereto, or as near thereto as circumstances will admit; and a copy of such statement shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on.

If default is made in compliance with the provisions of this section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this section shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding eight annas.

70. Every Company under this Act and not having a capital divided into shares shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and shall send to the Registrar of joint stock Companies a copy of such register, and shall from time to time notify to the Registrar any change that takes place in such directors or managers.

71. If any Company under this Act and not having a capital divided into shares makes default in keeping a register of its directors or managers, or in sending a copy of such register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such directors or managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues; and every

director or manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

72. A promissory note, bill of exchange or hundi shall be deemed to have been made, drawn, accepted or endorsed on behalf of any Company under this Act, if made, drawn, accepted or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, drawn, accepted or endorsed by or on behalf or on account of the Company by any person acting under the authority of the Company.

73. If any Company under this Act carries on business when the number of its members is less than seven, for a period of six months after the number has been so reduced, every person who is a member of such Company during the time that it so carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time, and may be sued for the same without the joinder in the suit of any other member.

Provisions for Protection of Members.

74. A general meeting of every Company under this Act shall be held once at the least in every year.

A balance-sheet shall be made out and filed with the Registrar of joint stock Companies within twelve months after the Company has been registered, and once at least in every year afterwards within twelve months from the filing of the balance-sheet immediately preceding; and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table A in the first schedule hereto, or as near thereto as circumstances admit.

And once at the least in every year the accounts of the Company shall be examined and the correctness of the last balance-sheet and its conformity with the law ascertained and certified by one or more auditor or auditors.

No balance-sheet shall be filed with the Registrar unless and until its correctness and conformity with the law have been so ascertained and certified, and it has been laid before and adopted by the Company in general meeting.

If default is made in compliance with any of the provisions of this section, every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to a penalty of one thousand rupees.

Meetings.

75. Every Company formed under this Act after the commencement of this Act shall hold a general meeting within six months after its memorandum of association is registered;

and, if such meeting is not held, the Company shall be liable to a penalty not exceeding fifty rupees a day for every day after the expiration of such four months, until the meeting is held; and every director or manager of the Company and every subscriber of the memorandum of Association who knowingly authorizes or permits such default shall be liable to the same penalty.

76. Subject to the provisions of this Act and to the conditions contained in the memorandum of association, any Company formed under this Act or the Indian Companies Act, 1866, may, in general meeting, from time to time, by passing a special resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the articles of association, or in the table marked A in the first schedule, where such table is applicable to the Company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the Company.

Any regulations so made by special resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the articles of association, and shall be subject in like manner to be altered or modified by any subsequent special resolution.

Any limited Company formed under this Act or the Indian Companies Act, 1866, may by a special resolution, if authorized to do so by its regulations as originally framed or as altered by special resolution, from time to time modify the conditions contained in its memorandum of association so far as to render unlimited, from and after the date of such resolution, the liability of its directors or managers, or of the managing director. Such special resolution shall be of the same validity as if it had been originally contained in the memorandum of association, and a copy thereof shall be embodied in or annexed to every copy of the memorandum of association which is issued after the passing of the resolution.

77. A resolution passed by a Company under this Act shall be deemed to be special whenever a resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed) at any general meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent general meeting, of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such resolution was first passed.

At any meeting mentioned in this section, unless a poll is demanded by at least five members, a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same.

Notice of any meeting shall, for the purposes of this section, be deemed to be duly given, and the meeting to be duly held whenever such notice is given and meeting held in manner prescribed by the regulations of the Company.

In computing the majority under this section when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

78. In default of any regulations as to voting, every member shall have one vote, and, in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the table marked A in the first schedule hereto.

In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and, in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

79. A copy of every special resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of joint stock Companies and be recorded by him.

If such copy is not so forwarded within fifteen days from the date of the confirmation of the resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

80. Where articles of association have been registered, a copy of every special resolution for the time being in force shall be annexed to or embodied in every copy of the articles of association that may be issued after the passing of such resolution. Where no articles of association have been registered, a copy of every special resolution shall be forwarded in print to any member requesting the same on payment of one rupee or such less sum as the Company may direct.

If any Company makes default in complying with the provisions of this section or section seventy-six, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

81. Any Company under this Act may, by instrument in writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such attorney on behalf of the Company and under his seal shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

82. The Local Government may appoint one or more competent inspectors to examine into the affairs of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following (that is to say):—

(a) In the case of a banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued:

(b) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the register of the Company as members.

83. The application shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same.

The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any inspector or inspectors.

84. It shall be the duty of all officers and agents of the Company to produce for the examination of the inspectors all books and documents in their custody or power.

Any inspector may examine upon oath the officers and agents of the Company in relation to its business.

If any such officer or agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each such offence.

85. Upon the conclusion of the examination, the inspectors shall report their opinions to the Local Government. Such report shall be written or printed as the Local Government directs.

A copy shall be forwarded by the Local Government to the registered office of the Company, and a further copy shall, at the request of the mem-

bers upon whose application the inspection was made, be delivered to them or to any one or more of them.

All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

86. Any Company under this Act may, by a special resolution, appoint inspectors for the purpose of examining into the affairs of the Company.

The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in general meeting directs.

The officers and agents of the Company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the Local Government.

87. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in such report.

88. Every prospectus of a Company, and every notice inviting persons to subscribe for shares in any joint stock Company, shall specify the dates and the names of the parties to any agreement enforceable by law which has been entered into by the Company, or the promoters, directors or trustees thereof, before the issue of such prospectus or notice (whether subject to adoption by the directors or the Company, or otherwise), and which might reasonably influence a person in determining whether he would or would not become a shareholder in the Company; and any prospectus or notice not specifying the same shall be deemed fraudulent on the part of the promoters, directors and officers of the Company knowingly issuing the same, as regards any person taking shares in the Company on the faith of such prospectus, unless he has had notice of such contract.

Notices.

89. Any summons, notice, order or other document required to be served upon the Company may be served by leaving the same, or sending it through the post by a registered letter addressed to the Company, at their registered office; and any notice to the Registrar of joint stock Companies

may be served by sending it to him through the post by a registered letter, or by delivering it to him or by leaving it for him at his office.

90. Every document to be served by post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and, in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the post office.

91. Any summons, notice, order or proceeding requiring authentication by the Company may be signed by any director, secretary or other authorized officer of the Company, and need not be under the common seal of the Company; and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

92. Every Company under this Act shall cause minutes of all resolutions and proceedings of general meetings of the Company, and of the directors or managers of the Company in cases where there are directors or managers, to be duly entered in books to be from time to time provided for the purpose; and any such minute as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings.

Until the contrary is proved, every general meeting of the Company or meeting of directors or managers in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had, and all appointments of directors, managers or liquidators shall be deemed to be valid, and all acts done by such directors, managers or liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Explanation.—Nothing in this section shall be deemed to give validity to acts done by a liquidator after his appointment has been shown to be invalid.

93. Where a limited Company is plaintiff in any suit, if it appears from the evidence adduced that there is reason to believe that, if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, any Judge having jurisdiction in the matter may require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

94. In any suit brought by the Company against any member to recover any call or other monies

due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Alteration of Forms.

95. The forms set forth in the second schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer.

The Governor General in Council may from time to time make such alterations in the tables and forms contained in the first schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said schedule mentioned, and in the forms in the second schedule, or make such additions to the last-mentioned forms, as he deems requisite.

Any such table or form, when altered, shall be published in the *Gazette of India*, and, upon such publication being made, such table or form shall have the same force as if it were included in the schedule to this Act; but no alteration made by the Governor General in Council in the table marked A contained in the first schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such table.

Arbitrations.

96. Any Company under this Act may from time to time, by writing under its common seal, agree to refer, and may refer, to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons, to whom the reference is made, power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the directors or other managing body of such Companies.

97. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions or stipulations thereof.

98. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

99. Where the Companies agree, the reference shall be made to a single arbitrator.

100. Except where the Companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows, to wit:—

where there are two Companies, the reference shall be made to two arbitrators;

where there are three or more Companies, the reference shall be made to so many arbitrators as there are Companies.

101. Where there are to be two or more arbitrators, every Company shall by writing under their common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other Company or Companies.

102. Where there are to be two or more arbitrators, if any of the Companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an arbitrator, may appoint an arbitrator. The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

103. Where the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

104. Where the Company, by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an arbitrator.

The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

105. When any appointment of an arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

106. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands

an impartial and qualified person to be their umpire.

107. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an umpire; and the umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators.

108. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

109. If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their umpire, then, on the application of the Companies or any of them, the Local Government may appoint an umpire.

The umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators so failing.

110. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

111. Where there are two or more arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

112. The arbitrator, and the arbitrators, and the umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath.

113. Except where and as the Companies otherwise agree, the arbitrator, and the arbitrators and the umpire respectively may proceed in the business

of the reference in such manner as he and they respectively shall think fit.

114. The arbitrator, and the arbitrators and the umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the arbitrator, or the arbitrators or the umpire shall think fit so to proceed.

115. The arbitrator, and the arbitrators and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred.

Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or, in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

116. The award of the arbitrator, or of the arbitrators or of the umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators or the umpire, shall be binding and conclusive on all the Companies.

117. Provided always that (except where and as the Companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

118. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

119. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered shall be done, omitted or suffered accordingly.

120. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act; and

the performance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

121. Except where and as the Companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the arbitrator, and the arbitrators and the umpire respectively.

122. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

123. On the application of any party interested, the submission to any such arbitration may be filed in the High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

124. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

125. The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful, in the case of the insolvency of any contributory, to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes situate outside the towns of Calcutta, Madras and Bombay.

126. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives,

heirs and devisees shall be liable in due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory; and such personal representatives, heirs and devisees shall be deemed to be contributories accordingly.

127. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

Winding-up by Court.

128. A Company under this Act may be wound up by the Court as herein-
Circumstances under which Company may be wound up by Court. after defined under the following circumstances (that is to say):—

(a) whenever the Company has passed a special resolution requiring the Company to be wound up by the Court;

(b) whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year;

(c) whenever the members are reduced in number to less than seven;

(d) whenever the Company is unable to pay its debts;

(e) whenever for any other reason of a like nature the Court is of opinion that it is just and equitable that the Company should be wound up.

129. A Company under this Act shall be deemed to be unable to pay its debts—

(a) whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at its registered office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor;

(b) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company is returned unsatisfied in whole or in part;

(c) whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

130. The expression "the Court" as used in this Part of this Act shall mean the principal Court having original civil jurisdiction in the place in

which the registered office of the Company is situate, unless in the regulations for the management of the Company it shall be stipulated that the Company, if wound up, shall be wound up by the High Court of Judicature at Fort William, Madras or Bombay (as the case may be), or by the Chief Court of the Panjáb, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original civil jurisdiction.

The expression "debts" as used in this Part of this Act means debts actually due, of which the creditor could claim immediate payment, except in the case of a Company issuing or liable under policies of assurance upon human life within British India, or granting annuities upon human life within British India. In the case of such a Company (hereinafter called a life-assurance Company), the expression "debts," as so used, includes also contingent or prospective liability under policies and annuity and other existing contracts.

131. Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories, of the Company, or by all or any of the above parties, together or separately.

The petition must allege facts which, if proved, will justify an order for winding-up the Company. Every order which may be made on any such petition shall operate in favour of all the creditors and all the contributories of the Company in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

In the case of a life-assurance Company the Court shall not give a hearing to the petition until security for costs for such amount as the Judge thinks reasonable is given, and until a *prima facie* case is also established to the satisfaction of the Judge; and, where the Company has an uncalled capital of an amount sufficient, with the future premiums receivable by the Company, to make up the actual invested assets equal to the amount of the estimated liabilities, the Court shall suspend further proceedings on the petition for a reasonable time to enable the uncalled capital, or a sufficient part thereof, to be called up; and, if at the end of the original or any suspended time for which the proceedings have been suspended such an amount has not been realised by means of calls as with the already invested assets is equal to the liabilities, an order shall be made on the petition as if the Company had been proved to be unable to pay its debts.

Explanation.—Nothing in this section authorizes the presentation of a petition by a member of a Company who is indebted to the Company in respect of a call made, or other moneys due.

132. No contributory of a Company under this Act shall be capable of presenting a petition for winding-up such Company unless the members of the Company

Contributory when not qualified to present winding-up petition.

are reduced in number to less than seven, or unless the shares in respect of which he is a contributory, or some of them, either were originally allotted to him, or have been held by him, and registered in his name, for a period of at least six months during the eighteen months previous to the commencement of the winding-up, or have devolved upon him through the death of a former holder:

Provided that, where a share has, during the whole or any part of the six months, been held by or registered in the name of the wife of a contributory either before or after her marriage, or by or in the name of any trustee for such wife, or for the contributory, such share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the contributory.

133. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

134. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act, and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit.

The Court may also at any time after the presentation of such petition, and before the first appointment of liquidators, appoint provisionally an official liquidator of the estate and effects of the Company.

135. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

136. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company except with the leave of the Court and subject to such terms as the Court may impose.

137. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of joint stock Companies, who shall make a minute thereof in his books relating to the Company.

Such order shall be deemed to be notice of discharge to the servants of the Company, except when the business of the Company is continued.

138. Such Court may, at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such

Power of Court to stay proceedings.

winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

139. When an order has been made for winding-up a Company limited by guarantee and having a capital divided into shares, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

140. The Court may, as to all matters relating to the winding-up, have regard to the wishes of creditors or contributories as proved to it by any sufficient evidence, and may, if it thinks fit, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard is to be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

Official Liquidators.

141. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court therein, there may be appointed a person or persons, to be called an official liquidator or official liquidators.

The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidator or official liquidators.

In all cases, if more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act hereby required or authorized to be done by the official liquidator is to be done by all or any one or more of such persons.

The Court may also determine whether any, and what, security is to be given by any official liquidator on his appointment.

If no official liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

A receiver shall not be appointed of assets in the hands of an official liquidator.

142. Any official liquidator may resign or be removed by the Court on due cause shown. Any vacancy in the office of an official liquidator appointed by the Court shall be filled up

by the Court. There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and, if more liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

143. The official liquidator shall be described by the style of the official liquidator of the particular Company in respect of which he is appointed, and not by his individual name. He shall take into his custody, or under his control, all the property, effects and actionable claims to which the Company is or appears to be entitled, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

144. The official liquidator shall have power, with the sanction of the Court, to do the following things:—

(a) to bring or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the Company;

(b) to carry on the business of the Company so far as may be necessary for the beneficial winding-up of the same;

(c) to sell the immovable and moveable property of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels;

(d) to do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the Company's seal;

(e) to prove, rank, claim and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateably with the other separate creditors;

(f) to draw, accept, make and endorse any bill of exchange, hundi or promissory note in the name and on behalf of the Company; also to raise, upon the security of the assets of the Company, from time to time, any requisite sum or sums of money; and the drawing, accepting, making or endorsing of every such bill, hundi or note as aforesaid on behalf of the Company shall have the same effect with respect to the liability of such Company as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such Company in the course of carrying on the business thereof;

(g) to take out, if necessary, in his official name, letters of administration to the estate of any deceased contributory, and to do, in his official name, any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and, in all cases where he takes out letters of

administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the official liquidator himself: Provided that nothing herein contained shall be deemed to affect the rights, duties and privileges of the Administrators General of Bengal, Madras and Bombay respectively;

(h) to do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

145. The Court may provide by any order Discretion of official liquidator. that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

146. The official liquidator may, with the sanction of the Court, appoint an attorney or vakil to official liquidator. assist him in the performance of his duties: Provided that, where the official liquidator is an attorney, he shall not appoint his partner, unless the latter consents to act without remuneration.

Ordinary Powers of Court.

147. As soon as may be after making an order Collection and application of assets. for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in pursuance of section fifty-eight, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities existing at the date of the said order.

148. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of, or being liable to the debts of, others.

149. The Court may, at any time after making an order for winding-up Power of Court to require delivery of property. a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker or agent or officer of the Company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the official liquidator, any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being, and to which the Company is *prima facie* entitled.

150. The Court may, at any time after making an order for winding-up Power of Court to order payment of debts by contributory. the Company, make an order on any contributory for the

time being settled on the list of contributories directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he, or the estate of the person whom he represents, may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this part of this Act.

The Court may, in making such order, when the Company is not limited, allow to such contributory, by way of set-off, any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits:

Provided that, when all the creditors of any Company, whether limited or unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

In the event of the winding-up of any limited Company, the Court, if it thinks fit, may make to any director or manager of such Company whose liability is unlimited the same allowance by way of set-off as under this section it may make to a contributory where the Company is not limited.

151. The Court may, at any time after making Power of Court to an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on, and order payment thereof by, all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves.

The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

152. The Court may order any contributory, Power of Court to order payment into Bank. purchaser or other person from whom money is due to the Company to pay the same into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the official liquidator instead of to the official liquidator; and such order may be enforced in the same manner as if it had directed payment to the official liquidator.

153. All monies, bills, hundis, notes and other Regulation of account securities paid and delivered with Court. into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be

subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same as the Court may direct.

154. If any person made a contributory as Provision in case of personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereof of the monies due.

155. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due; and all other pertinent matters stated in such order are to be taken to be truly stated, as against all persons and in all proceedings whatsoever.

156. The Court may fix a certain day or certain days on or within which creditors not proving their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

157. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.

158. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company of the costs, charges and expenses incurred in winding-up any Company in such order of priority as the Court thinks just.

159. When the affairs of the Company have been completely wound up, the Court shall make an order that the Company be dissolved from the date of such order, and the Company shall be dissolved accordingly.

160. Any order so made shall be reported by the Registrar to the minute of dissolution of Company. Registrar, who shall make a minute accordingly in his books of the dissolution of such Company.

161. If the official liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred rupees for every day during which he is so in default.

Extraordinary Powers of Court.

162. The Court may, after it has made an order for winding-up the Company, summon before it any officer of the Company, or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the Company.

If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination.

The Court may require any such officer or person to produce any documents in his custody or power relating to the Company. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

163. The Court may examine upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid concerning the affairs, dealings, estate or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

164. The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

165. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate; and such proceedings may be instituted accordingly.

Enforcement of, and Appeal from, Orders.

166. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

167. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India, other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

168. Where any order or decree made by one Court is required to be enforced by another Court as hereinbefore provided, a certified copy of the order or decree so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made; and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

169. Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding-up of a Company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil Procedure, unless such time is extended by the Court of appeal.

170. In all proceedings under this Part of this Act, every Court, Judge and person judicially acting, and all other officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any officer of any other Court, and also of the official seal of any other Court, when such seal is appended to any document made, issued or signed under the provisions of this Part of this Act, or any official copy thereof.

171. The Judges of the District Courts, who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any

Company is wound up in a High Court; and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company.

Every such Commissioner shall, in addition to any power of summoning and examining witnesses and requiring the production or delivery of documents and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses, and requiring the production or delivery of documents, and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

172. If any affidavit, affirmation or declaration, required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any colony, island, plantation or place under the dominion of Her Majesty in foreign parts, before any Court, Judge or person lawfully authorized to take and receive affidavits, affirmations or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions, all Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Part of this Act.

Voluntary Winding-up of Company.

173. A Company under this Act may be wound up voluntarily—

(a) whenever the period, if any, fixed for the duration of the Company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the articles of association that the Company is to be dissolved, and the Company in general meeting has passed a resolution requiring the Company to be wound up voluntarily;

(b) whenever the Company has passed a special resolution requiring the Company to be wound up voluntarily;

(c) whenever the Company has passed an extraordinary resolution to the effect that it has been proved to its satisfaction that the Company cannot by reason of its liabilities continue its

business, and that it is advisable to wind up the same:

For the purposes of this Act any resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a special resolution as hereinbefore defined.

174. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution authorizing such winding-up.

When the winding-up is in pursuance of a special resolution, it shall be deemed to commence at the time of the passing, under section seventy-seven, of the confirmatory resolution.

175. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up,

cease to carry on its business except in so far as may be required for the beneficial winding-up thereof; and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alteration in the status of the members of the Company, taking place after the commencement of such winding-up, shall be void; but its corporate state and all its corporate powers shall, notwithstanding that its regulations otherwise provide, continue until the affairs of the Company are wound up.

176. Notice of any special resolution or extraordinary resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local official Gazette, and also in some newspaper (if any) circulating in the place where the registered office of the Company is situated.

177. The following consequences shall ensue upon the voluntary winding-up of a Company:—

(a) the assets of the Company shall be applied in satisfaction of its liabilities *pari passu* as they exist at the commencement of the winding-up, and subject thereto shall, unless the regulations of the Company otherwise provide, be distributed amongst the members according to their rights and interests in the Company:

(b) liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the assets:

(c) the Company in general meeting shall appoint such persons as it thinks fit to be liquidators, and may fix the remuneration to be paid to them

(d) if one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him:

(e) upon the appointment of liquidators, all the powers of the directors shall cease, except in so far as the Company in general meeting, or the liquidators, may sanction the continuance of such powers:

(f) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two:

(g) the liquidators may, without the sanction of the Court, exercise all powers by this Act given to the official liquidators:

(h) the liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the Company, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories:

(i) the liquidators may, at any time after the passing of the resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(j) the liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

178. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the liquidators.

179. A Company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an extraordinary resolution, delegate to its creditors, or to any committee of its creditors, the power of appointing liquidators or any of them, and supplying any vacancies in the appointment of liquidators, or may, by a like resolution, enter into any arrangement with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised.

Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

180. Any arrangement which a Company about to be wound up voluntarily, or in the course of being wound up voluntarily, shall have entered into with its creditors shall be binding on the Company if sanctioned by an extraordinary resolution.

nary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is herein-after mentioned.

181. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary or confirm the same.

182. Where a Company is being wound up voluntarily, the liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise, as respects the enforcing of calls or in respect of any other matter, all or any of the powers which the Court might exercise if the Company were being wound up by the Court. Any such application may be made by motion. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

183. Where a Company is being wound up voluntarily, the liquidators may, from time to time, during the continuance of such winding-up, summon general meetings of the Company for the purpose of obtaining the sanction of the Company by special resolution or extraordinary resolution, or for any other purposes they think fit.

In the event of the winding-up continuing for more than one year, the liquidators shall summon a general meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding-up has been conducted, during the preceding year.

184. If any vacancy occurs in the office of liquidators appointed by the Company, by death, resignation or otherwise, the Company in general meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy; and a general meeting for the purpose of filling up such vacancy may be convened by the continuing liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing liquidator, if any, or by any contributory of the Company, be determined by the Court.

185. If, from any cause whatever, there is no liquidator acting in the case of a voluntary winding-up, the Court may, on the application of a contributory, appoint a liquidator or liquidators. The Court may also, on due cause shown, remove any liquidator and appoint another liquidator to act in the matter of a voluntary winding-up.

186. As soon as the affairs of the Company are fully wound up, the liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of: and thereupon they shall call a general meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the liquidators.

The meeting shall be called by advertisement, specifying the time, place and object of such meeting, and such advertisement shall be published one month at least previously to the meeting in the manner specified in section one hundred and seventy-six.

187. The liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held; and, on the expiration of three months from the date of the registration of such return, the Company shall be deemed to be dissolved.

If the liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

188. All costs, charges and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the liquidators, shall be payable out of the assets of the Company in priority to all other claims.

189. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

190. Where a Company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Winding-up subject to the Supervision of the Court.

191. When a resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions, as the Court thinks just.

192. A petition praying wholly or in part that a voluntary winding-up shall continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding-up the Company by the Court.

193. The Court may, in determining whether a Company is to be wound up altogether by the Court, or subject to the supervision of the Court, in the appointment of a liquidator or of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned, held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard shall be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

194. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional liquidator.

Any liquidator so appointed by the Court shall have the same powers, be subject to the same obligations and in all respects stand in the same position, as if he had been appointed by the Company.

The Court may, from time to time, remove any liquidator so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

195. Where an order is made for a winding-up subject to the supervision of the Court, the liquidator appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily.

Save as aforesaid, any order made by the Court for a winding-up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court.

In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidators, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding-up subject to the supervision of the Court.

196. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other person, to be official liquidators.

Supplemental Provisions.

197. Where any Company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding-up and the order for winding-up, shall, unless the Court otherwise orders, be void.

198. Where any Company is being wound up, all books, accounts and documents of the Company and of the liquidators shall, as between the contributories of the Company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

199. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the Company and of the liquidator may be disposed of in the following way; that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and, where the Company has been wound up voluntarily, in such way as the Company by an extraordinary resolution directs.

But, after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

200. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

201. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the liquidator may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, whereby the Company may be rendered liable.

202. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the liquidator to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

203. Where any compromise or arrangement shall be proposed between a Company which is, at the commencement of this Act or afterwards, in the course of being wound up either voluntarily or by or under the supervision of the Court, and the creditors of such Company, or any class of such creditors, it shall be lawful for the Court, in addition to any other of its powers, on the application in a summary way of any creditor or the liquidator, to order that a meeting of such creditors or class of creditors shall be summoned in such manner as the Court shall direct; and, if a majority in number, representing three-fourths in value, of such creditors or class of creditors present either in person or by proxy at such meeting shall agree to any arrangement or compromise, such arrangement or compromise shall, if sanctioned by an order of the Court, be

binding on all such creditors or class of creditors, as the case may be, and also on the liquidator and contributories of the said Company.

204. Where any Company is proposed to be, or is in the course of being, wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the liquidators of the first-mentioned Company may, with the sanction of a special resolution of the Company by whom they were appointed, conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, receive, in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of, or receive any other benefit from, the purchasing Company.

Any sale made, or arrangement entered into, by the liquidator in pursuance of this section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has not voted in favour of the special resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such special resolution in writing addressed to the liquidators or one of them, and left at the registered office of the Company not later than seven days after the date of the meeting at which such special resolution was passed, such dissentient member may, by writing addressed and left as last aforesaid, require the liquidator to do one of the following things as the liquidator may prefer (that is to say):—either to abstain from carrying such resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned; such purchase-money to be paid before the Company is dissolved, and to be raised by the liquidator in such manner as may be determined by special resolution.

No special resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to, or concurrently with, any resolution for winding-up the Company or for appointing liquidators; but, if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such resolution shall not be of any validity unless it is sanctioned by the Court.

205. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

206. When any dispute so directed to be settled by arbitration has arisen, then, unless both parties concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred.

Appointment of arbitrator when questions are to be determined by arbitration.

After any such appointment has been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation.

If for the space of fourteen days after any such dispute has arisen, and after a request in writing has been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters in dispute; and in such case the award or determination of such single arbitrator shall be final.

207. If, before the matters so referred are determined, any arbitrator appointed by either party die, or become incapable or refuse, or for seven days neglect, to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal or disability as aforesaid.

208. Where more arbitrators than one have been appointed, they shall, before entering upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ.

Appointment of umpire.

If such umpire die, or refuse, or for seven days neglect, to act, they shall forthwith, after such death, refusal or neglect, appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

209. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath.

210. The costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpire, as the case may be.

211. On the application of either of the parties, the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

212. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress or execution put in force, without the leave of the Court, against the estate or effects of the Company after the commencement of the winding-up shall be void.

Nothing in this section applies to proceedings by the Government.

213. Every conveyance, mortgage, delivery of goods, payment, execution or other act relating to property, which would, if made or done by or against any individual trader, be deemed, in the event of his insolvency, to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly.

For the purposes of this section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees, for the benefit of all its creditors, shall be void.

214. Where, in the course of the winding-up of any Company under this Act, it appears that any past or present director, manager, official or other liquidator, or any officer of such Company, has misapplied or retained in his own hands, or become liable or accountable for, any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any liquidator or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager or other officer, and compel him to repay any monies so misapplied or retained, or for which such officer has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misap-

plication, retainer, misfeasance or breach of trust, as the Court thinks just.

Explanation I.—The banker of a Company is not, as such, an officer within the meaning of this section.

Explanation II.—Proceedings cannot be taken under this section against the representatives of a deceased officer.

215. If any director, officer or contributory of any Company wound up under this Act destroys, mutilates, alters, falsifies or fraudulently secretes any books, papers, writings or securities, or makes, or is privy to the making of, any false or fraudulent entry in any register, book of account or other document belonging to the Company, with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

216. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present director, manager, officer or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up or of its own motion, direct the official liquidators or the liquidators (as the case may be) to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

217. If any person, upon any examination upon oath authorized under this Act, or in any affidavit, deposition or solemn affirmation, in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years and shall also be liable to fine.

218. Where the High Court makes an order for winding-up a Company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court; and thereupon such District Court shall, for the purpose of winding-up the Company, be deemed to be "the Court" within the meaning of this Act, and shall have, for the purposes of such winding-up, all the jurisdiction and powers of the High Court.

219. If during the progress of a winding-up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court, the High Court may transfer the same to

such other Court, and thereupon the winding-up shall proceed in such other District Court.

PART V.

REGISTRATION-OFFICE.

220. The registration of Companies under this Act shall be conducted as follows (that is to say):—

(a) The Local Government may, after the sanction of the Governor General in Council to the creation of any such offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure:

(b) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, clerks and servants as aforesaid:

(c) The Local Government may from time to time determine the places at which offices for the registration of Companies are to be established, so that there be at all times maintained in each of the towns of Calcutta, Madras and Bombay at least one such office, and that no Company shall be registered except at an office within that part of British India in which, by the memorandum of association, the registered office of the Company is declared to be established:

(d) The Local Government may from time to time direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of Companies:

(e) Every person may inspect the documents kept by the Registrar of joint stock Companies. There shall be paid for such inspection such fees as may be directed by the Local Government, not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may direct, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract:

(f) The existing Registrar, Assistant Registrars, clerks and other officers and servants in the office for the registration of joint stock Companies shall, during the pleasure of the Local Government, hold the offices and receive the salaries hitherto held and received by them, but they shall in the execution of their duties conform to any regulations that may be issued by the Local Government:

(g) There shall be paid to any Registrar, Assistant Registrar, clerk or servant that may hereafter be employed in the registration of joint stock Companies such salary as the Local Government

may, with the sanction of the Governor General in Council, direct :

(k) Whenever any act is herein directed to be done to or by the Registrar of joint stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of joint stock Companies, or in his absence to or by such person as the Local Government may for the time being authorize. But, in the event of the Local Government altering the constitution of the existing registry-office, such act shall be done to or by such officer or officers, and at such place or places with reference to the local situation of the registered offices of the Companies to be registered, as the Local Government may appoint.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES ACTS.

221. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860, or either of them, in the same manner, in the case of a limited Company, as if such Company had been formed and registered under this Act as a Company limited by shares, and, in the case of a Company other than a limited Company, as if such Company had been formed and registered as an unlimited Company under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by special resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the table marked B annexed to Act No. XIX of 1857, and shall also, in the case of an unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that such regulations are contained in the memorandum of association.

222. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

223. Any Company registered under the said Mode of transferring Acts or either of them may shares. cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

224. With the exceptions made in the next Companies capable of following section and subject being registered. to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament or Act of the Governor General in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

225. The following regulations shall be observed Regulations as to with respect to the registration of existing Companies. of Companies under this Part of this Act (that is to say) :—

(a) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, and not being a joint stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof :

(b) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an unlimited Company, or as a Company limited by guarantee :

(c) No life-assurance Company existing at the time of the commencement of this Act, and no Company that is not a joint stock Company as hereinafter defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by shares :

(d) No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present personally, or by proxy in cases where proxies are allowed by the regulations of the Company, at some general meeting summoned for the purpose :

(e) Where a Company, not having the liability of its members limited by Act of Parliament, or Act of the Governor General in Council, or by

Letters Patent, is about to register as a limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned general meeting:

(✓) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

In computing any majority under this section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

226. For the purposes of this Part of this Act, Definition of "joint stock Company." so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a joint stock Company shall be deemed to be a Company having a permanent paid up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons; and such Company, when registered with limited liability under this Act, shall be deemed to be a Company limited by shares.

227. Previously to the registration, in pursuance of this Part of this Act, of any joint stock Company, there shall be delivered to the Registrar the following documents (that is to say):—

(a) A list showing the names, addresses and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number:

(b) A copy of any Act of Parliament or Act of the Governor General in Council, Royal Charter, Letters Patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the Company:

(c) If any such joint stock Company is intended to be registered as a limited Company, the above list and copy shall be accompanied by a statement

specifying the following particulars (that is to say):—

the nominal capital of the Company and the number of shares into which it is divided;

the number of shares taken and the amount paid on each share;

the name of the Company, with the addition of the word "limited" as the last word thereof;

with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

228. Previously to the registration in pursuance of this Part of this Act of any Company not being a joint stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the directors or other managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor General in Council, Letters Patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the Company, with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

229. Where a joint stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement, not more than six clear days before the day of registration.

230. The lists of members and directors and Authentication of any other particulars relating to the Company hereby required to be delivered to the Registrar shall be verified by declaration of the directors of the Company delivering the same, or any two of them, or of any two other principal officers of the Company, made before a Justice of the Peace or a District Judge.

231. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a joint stock Company as hereinafter defined.

232. Every banking Company existing at the date of the passing of this Act which registers itself as a limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and

partnership firm having a banking account with the Company.

Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company.

In case the Company omits to give any such notice as is hereinbefore required to be given, then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

233. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of any Company in cases where such Company is not registered as a limited Company, or where, previously to its being registered as a limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor General in Council, or by Letters Patent.

234. Any Company authorized by this Part of this Act to change its name, shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "limited."

235. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the tables marked B and C in the first schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company, that it is limited; and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

236. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a limited or unlimited Company, as the case may be; and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

237. All such property, moveable and immovable, including all interests and rights in, to and out of

property, moveable and immovable, and including obligations and actionable claims, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

238. The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of, such Company previously to such registration.

239. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid; but, in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding-up the Company.

240. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company, including, in the case of a Company registered as a Company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and articles of association; and all the provisions of this Act shall apply to such Company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following (that is to say):—

(a) That table A in the first schedule to this Act shall not, unless adopted by special resolution, apply to any Company registered under this Act in pursuance of this Part thereof:

(b) That the provisions of this Act relating to the numbering of shares shall not apply to any joint stock Company whose shares are not numbered:

(c) That no Company shall have power to alter any provisions contained in any Act of Parliament, Act of the Legislative Council or Act of the Governor General in Council relating to the Company:

(d) That no Company shall have power, without the sanction of the Governor General in Council, to alter any provision contained in any Letters Patent relating to the Company :

(e) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, the provisions hereinbefore contained with respect to the representatives, heirs and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply :

(f) Nothing herein contained shall authorize any Company to alter any such provisions contained in any deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act :

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company.

241. The Court may, at any time after the presentation of a petition for winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

242. Where an order has been made for winding-up a Company registered in pursuance of this Part of this Act, in addition to the provisions hereinbefore contained, it is hereby further provided that no suit or other legal proceeding shall be commenced or proceeded with

against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

243. Subject as hereinafter mentioned, any Partnership, Association or Company, except Railway Companies incorporated by Act of Parliament or Act of the Governor General in Council, consisting of more than seven members and not registered under this Act, and hereinafter included under the term "unregistered Company," may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions :—

(1) An unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate, or, if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered office of the Company :

(2) No unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court :

(3) The circumstances under which an unregistered Company may be wound up are as follows (that is to say) :—

(a) whenever the Company is dissolved or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs ;

(b) whenever the Company is unable to pay its debts ;

(c) whenever the Court is of opinion that it is just and equitable that the Company should be wound up :

(4) An unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the secretary or some director or

principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor;

(b) whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the secretary or some director, manager or principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not, within ten days after service of such notice, paid, secured or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;

(c) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied;

(d) whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

244. In the event of an unregistered Company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company.

Every such contributory shall be liable to contribute to the assets of the Company in the course of the winding-up all sums due from him in respect of any such liability as aforesaid.

In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

245. The Court may, at any time after the making of an application for winding-up an unregistered Company, and before making an order for winding-up the Company, upon the

application of any creditor of the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

246. Where an order has been made for winding-up an unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

247. If any unregistered Company has no provision in case of power to sue and be sued in unregistered Company. a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding-up such Company or by any subsequent order, direct that all such property, moveable and immoveable, including all interests, claims and rights into and out of property, moveable and immoveable, and including actionable claims, as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company, or any part of such property, is to vest in the official liquidator or official liquidators by his or their official name or names; and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the official liquidator or official liquidators may, in his or their official name or names, or in such name or names, and after giving such indemnity, as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding-up the Company and recovering the property thereof.

248. The provisions made by this Part of this Act with respect to unregistered Companies shall be deemed to be made in addition to, and not in restriction of, any provisions hereinbefore contained with respect to winding-up Companies by the Court.

The Court or official liquidator may, in addition to anything contained in this Part of this Act, exercise any powers or do any act in the case of unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act; but an unregistered Company shall not, except in the event of its being wound-up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

PART IX.

MISCELLANEOUS PROVISIONS.

249. No Company under this Act shall have power to buy its own shares.

Company not to buy its own shares.

250. Where, previously to the commencement of this Act, an order has been made for winding-up a Company under the Indian Companies Act, 1866, or a resolution has been passed for winding-up a Company voluntarily, such Company shall be wound-up in the same manner and with the same incidents as if this Act were not passed; and, for the purposes of such winding-up, the Indian Companies Act, 1866, shall be deemed to remain in full force.

251. Where, previously to the commencement of this Act, any conveyance, mortgage-deed or other instrument has been made in pursuance of the Indian Companies Act, 1866, such instrument shall be of the same force as if this Act had not passed; and, for the purposes of such instrument, the Indian Companies Act, 1866, shall be deemed to remain in full force.

252. All offences under this Act may be tried by any Magistrate of the first class, unless the period of imprisonment to which the offender is liable exceeds that which such officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such officer, the offender shall be committed for trial before the Court of Session.

If any offence which by this Act is declared to be punishable by any penalty is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

253. Subject to the provisions hereinbefore contained, the Court may, in any proceedings under this Act, make such order as to costs as it thinks fit.

254. The High Court may from time to time make rules, consistent with this Act and with the Code of Civil Procedure, concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the subdivision of the shares of a Company.

255. In sections 1 and 18 of Act No. XXI of 1860 (for the registration of Literary, Scientific and Charitable Societies), the words "Registrar of Joint Stock Companies" shall be construed to mean Registrar of joint stock Companies under this Act or any Act for the time being in force.

256. Save as provided in sections one hundred and fifty-two and one hundred and fifty-three, nothing in this Act shall be deemed

to apply to the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in general meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, may be renewed, on payment of eight annas or such less sum as the Company in general meeting may prescribe.

Calls on Shares.

(4.) The directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5.) A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The directors may, if they think fit, receive, from any member willing to advance the same, all or any part of the monies due upon the shares held by him beyond the sums actually called for; and, upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register-book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, A B, of
sum of rupees , in consideration of the
paid to me by C D

of _____, do hereby transfer to the said *C D* the share (or shares) numbered _____ standing in my name in the books of the Company, to hold unto the said *C D*, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said *C D*, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands, the _____ day of _____

(10.) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call together with interest and any expenses that may have accrued by reason of such non-payment.

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place

appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

(20.) Any share so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company in general meeting thinks fit.

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made and that the forfeiture of the share was made by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The directors may, with the sanction of the Company previously given in general meeting, convert any paid up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interest, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The directors may, with the sanction of a special resolution of the Company previously given in general meeting, increase its capital by the issue of new shares; such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in general meeting directs, or, if no direction is given, as the directors think expedient.

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions, with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29.) The first general meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place, as the directors may determine.

(30.) Subsequent general meetings shall be held, once at the least in every year, at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(31.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(32.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an extraordinary general meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(34.) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other members amounting to the

required number, may themselves convene an extraordinary general meeting.

Proceedings at General Meeting.

(35.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(37.) No business shall be transacted at any general meeting, except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows, that is to say:—if the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38.) If, within one hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week, at the same time and place; and if, at such adjourned meeting, a quorum is not present, it shall be adjourned *sine die*.

(39.) The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the Company.

(40.) If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be chairman.

(41.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(43.) If a poll is demanded by five or more

members, it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the Company in general meeting. In the case of an equality of votes at any general meeting, the chairman shall be entitled to a second or casting vote.

Votes of Members.

(44.) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or, if such appointor is a corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50.) The instrument appointing a proxy shall be deposited at the registered office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form:—

Company, Limited.

I, _____, of _____,
being a member of the
Company, Limited, and entitled to
vote or _____ votes, hereby appoint
of _____, as my proxy, to vote for me and on
my behalf at the (ordinary or extraordinary, as
the case may be) general meeting of the Company
to be held on the _____ day of _____,
and at any adjournment thereof (or at any meet-

ing of the Company that may be held in the year _____). As witness my hand, this
day of _____

Signed by the said _____ in the presence of

Directors.

(52.) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

(53.) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

(54.) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the Company in general meeting.

Powers of Directors.

(55.) The business of the Company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these articles, required to be exercised by the Company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56.) The continuing directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57.) The office of director shall be vacated—

if he, or any partner of his, or the firm of which he is a member, holds any other office or place of profit under the Company;

if he becomes bankrupt or insolvent;

if he is punished under any of the penal provisions of the foregoing Act;

if he is concerned in or participates in the profits of any contract with the Company.

But the above rules shall be subject to the following exceptions:—that no director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is director; nevertheless, he shall not vote in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

Rotation of Directors.

(58.) At the first ordinary meeting after the registration of the Company, the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year, one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59.) The one-third or other nearest number to

retire during the first and second years ensuing the first ordinary meeting of the Company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60.) A retiring director shall be re-eligible.

(61.) The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If, at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63.) The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64.) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65.) The Company in general meeting may, by a special resolution, remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66.) The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

(67.) The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

(68.) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall, in the exercise of the

powers so delegated, conform to any regulations that may be imposed on it by the directors.

(69.) A committee may elect a chairman of its meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

(70.) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and, in case of an equality of votes, the chairman shall have a second or casting vote.

(71.) All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends.

(72.) The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

(74.) The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the Company.

(77.) No dividend shall bear interest as against the Company.

Accounts.

(78.) The directors shall cause true accounts to be kept—

of the stock in trade of the Company;

of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

of the credits and liabilities of the Company.

The books of account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance-sheet shall be made out in every year and laid before the Company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82.) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit.

(83.) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84.) The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the Company in general meeting.

(85.) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86.) The auditors may be members of the Company; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company; and no director or other officer of the Company is eligible during his continuance in office.

(87.) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88.) The remuneration of the first auditors shall be fixed by the directors; that of subsequent

auditors shall be fixed by the Company in general meeting.

(89.) Any auditor shall be re-eligible on his quitting office.

(90.) If any casual vacancy occurs in the office of any auditor appointed by the Company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91.) If no election of auditors is made in manner aforesaid, the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

(92.) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the Company.

(94.) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

(95.) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

Dr.		Cr.	
Balance-sheet (a) of the		Company made up to	
CAPITAL AND LIABILITIES.		PROPERTY AND ASSETS.	
SHOWING—		SHOWING—	
Rs.	As.	Rs.	As.
I. CAPITAL,		III. PROPERTY HELD BY THE COMPANY,	
1 The number of shares	7 Immovable property—distinguishing—	...
2 The amount paid per share	(a) Freehold land .....	...
3 If any arrears of calls, the nature of the arrear and the names of the defaulters	(b) Leasehold buildings .....	...
4 The particulars of any forfeited shares	(c) Leasehold .....	...
5 The amount of loans on mortgages or debenture bonds	8 Movable property—distinguishing—	...
6 The amount of debts owing by the Company—distinguishing—	...	(a) Stock in trade .....	...
(a) Debts for which acceptances have been given	(b) Plant .....	...
(b) Debts to tradesmen for supplies of stock in trade or other articles	(c) The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss .....	...
(c) Debts for law-expenses	IV. DEBTS OWING TO THE COMPANY,	
(d) Debts for interest on debentures or other loans	9 Debts considered good for which the Company hold bills or other securities .....	...
(e) Unclaimed dividends	10 Debts considered good for which the Company hold no security .....	...
(f) Debts not enumerated above	11 Debts considered doubtful and bad .....	...
SHOWING—		Any debt due from a director or other officer of the Company to be separately stated .....	...
The amount set aside from profits to meet contingencies	V. CASH AND INVESTMENTS,	
SHOWING—		12 The nature of investment and rate of interest .....	...
The disposable balance for payment of dividends, &c.	13 The amount of cash, where lodged, and if bearing interest .....	...
Claims against the Company not acknowledged as debts		
Monies for which the Company is contingently liable		
CONTINGENT LIABILITIES.			

(a) See clauses 81 and 82 of the foregoing Table A.

TABLE B.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose nominal capital does not exceed Rs. 20,000, a fee of ...	40	0	0
For registration of a Company whose nominal capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital; (that is to say)—			
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees ...	20	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 50,000 rupees up to 1,00,000 rupees ...	5	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 1,00,000 rupees ..	1	0	0
For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees, or part of 10,000 rupees, as would have been payable if such increased capital had formed part of the original capital at the time of registration.			
Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account, in the case of fees payable on an increase of capital after registration, the fees paid on registration.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of ...	5	0	0

TABLE C.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company not having a capital divided into shares:—

	Rs.	A.	P.
For registration of a Company whose number of members, as stated in the articles of association, does not exceed 20	40	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100	100	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, or less number than 50 members, after the first 100.			
For registration of a Company in which the number of members is stated in the articles of association to be unlimited, a fee of ...	400	0	0
For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase	5	0	0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

* The Capital of the Company is Rs. ,
divided into shares of each.
The number of shares issued is . Calls to

* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

the amount of Rs. per share have been made, under which the sum of Rs. has been received.

The liabilities of the Company on the first day of January (or July) were:—

Debts owing to sundry persons by the Company:

Under decree, Rs.
On mortgages or bonds, Rs.
On notes, bills or hundís, Rs.
On other contracts, Rs.
On estimated liabilities, Rs.

The assets of the Company on that day were:—

Government securities [stating them], Rs.
Bills of exchange, hundís and promissory notes, Rs.
Cash at the bankers, Rs.
Other securities, Rs.

SECOND SCHEDULE.

(SEE SECTION 95.)

FORM A.

Memorandum of association of a Company limited by shares.

1st.—The name of the Company is “The Company, Limited.”

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are “and the doing all such other things as are incidental or conducive to the attainment of the above object.”

4th.—The liability of the members is limited.

5th.—The capital of the Company is Rs. divided into shares of Rs. each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:—

Names, addresses and description of subscribers.	Number of shares taken by each subscriber.
1. A. B. of ...	
2. C. D. „ ...	
3. E. F. „ ...	
4. G. H. „ ...	
5. I. J. „ ...	
6. K. L. „ ...	
7. M. N. „ ...	
Total shares taken ...	

Dated the day of
Witness to the above signatures.
O. P. of

FORM B.

Memorandum and articles of association of a Company limited by guarantee, and not having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Mutual Calcutta Marine Association, Limited."

2nd.—The registered office of the Company will be situate in Calcutta.

3rd.—The objects for which the Company is established are "the mutual insurance of ships belonging to members of the Company, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

- | | | | |
|----|----|----|----|
| 1. | A. | B. | of |
| 2. | C. | D. | " |
| 3. | E. | F. | " |
| 4. | G. | H. | " |
| 5. | I. | J. | " |
| 6. | K. | L. | " |
| 7. | M. | N. | " |

Dated the day of

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

(1.) The Company, for the purpose of registration, is declared to consist of five hundred members.

(2.) The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4.) The first general meeting shall be held at such time, not being more than three months after

the incorporation of the Company, and at such place, as the directors may determine.

(5.) Subsequent general meetings shall be held at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year at such place as may be determined by the directors.

(6.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(7.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by any five or more members, convene an extraordinary general meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(9.) Upon the receipt of such requisition, the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

(10.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and, in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(11.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows, that is to say:—if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty; with this limitation, that no quorum shall in any case exceed thirty.

(13.) If, within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting, if convened upon the requisition of the members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the following week, at the same time and place; and, if at such adjourned meeting a quorum

of members is not present, it shall be adjourned *sine die*.

(14.) The chairman (if any) of the directors shall preside as chairman at every general meeting of the Company.

(15.) If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of such meeting.

(16.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs; and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator: if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form:—

I, _____, of _____, being a member of the _____ Company, Limited, hereby appoint _____, of _____, as my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the Company to be held on the _____ day of _____, and at any adjournment thereof

[or at any meeting of the Company that may be held in the year _____].

As witness my hand, this _____ day of _____ Signed by the said _____ in the presence of _____

Directors.

(25.) The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(26.) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

Election of Directors.

(28.) The directors shall be elected annually by the Company in general meeting.

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted.)

Accounts.

(29.) The accounts of the Company shall be audited by a committee of five members, to be called the audit-committee.

(30.) The first audit-committee shall be nominated by the directors out of the body of members.

(31.) Subsequent audit-committees shall be nominated by the members at the ordinary general meeting in each year.

(32.) The audit-committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The audit-committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company.

They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may, in relation to such accounts, examine the directors or any other officer of the Company.

(34.) The audit-committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations, and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for ex-

planations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory; and such report shall be read together with the report of the directors at the ordinary meeting.

Notices.

(35.) A notice may be served by the Company upon any member, either personally, or by sending it through the post in a letter addressed to such member at his registered place of abode.

(36.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an extraordinary resolution, as defined by The Indian Companies Act, 1882, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses and Descriptions of Subscribers.

1.	A. B. of	...	Merchant.
2.	C. D. of	...	"
3.	E. F. of	...	"
4.	G. H. of	...	"
5.	I. J. of	...	"
6.	K. L. of	...	"
7.	M. N. of	...	"

Dated the day of 18 .

Witness to the above signatures.

O. P. of

FORM C.

Memorandum and articles of association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Hotel Company, Limited."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

1. The capital of the Company shall consist of five lakhs of rupees divided into five thousand shares of one hundred rupees each.

2. The directors may, with the sanction of the Company in general meeting, reduce the amount of shares.

3. The directors may, with the sanction of the Company in general meeting, cancel any shares belonging to the Company.

4. All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, addresses and descriptions of subscribers.	Number of shares taken by each subscriber.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	

Total shares taken

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Memorandum and articles of association of an unlimited Company having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Patent Company."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the working of a patent method of , of which method O. P. of is the sole patentee."

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1882, and is hereby promulgated for general information:—

ACT No. VII OF 1882.

An Act to amend the law relating to Powers-of-Attorney.

For the purpose of amending the law relating to Powers-of-Attorney; it is hereby enacted as follows:—

Short title.	1. This Act may be called "The Powers-of-Attorney Act, 1882":
Local extent.	It applies to the whole of British India; and it shall come into force on the first day of May, 1882.
Commencement.	

2. The donee of a power-of-attorney may, if he thinks fit, execute or do any assurance, instrument or thing in and with his own name and signature, and his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument and thing so executed and done, shall be as effectual in law as if it had been executed or done by the donee of the power in the name, and with the signature and seal, of the donor thereof.

This section applies to powers-of-attorney created by instruments executed either before or after this Act comes into force.

3. Any person making or doing any payment or act in good faith, in pursuance of a power-of-attorney, shall not be liable in respect of the payment or act by reason that, before the payment or act, the donor of the power had died or become lunatic, of unsound mind, or bankrupt or insolvent, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, insolvency or revocation was not, at the time of the payment or act, known to the person making or doing the same.

But this section shall not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had

against the payer, if the payment had not been made by him.

This section applies only to payments and acts made or done after this Act comes into force.

4. (a) An instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the High Court within the local limits of whose jurisdiction the instrument may be.

(b) A separate file of instruments so deposited shall be kept; and any person may search that file, and inspect every instrument so deposited; and a certified copy thereof shall be delivered out to him on request.

(c) A copy of an instrument so deposited may be presented at the office and may be stamped or marked as a certified copy, and, when so stamped or marked, shall become and be a certified copy.

(d) A certified copy of an instrument so deposited shall, without further proof, be sufficient evidence of the contents of the instrument and of the deposit thereof in the High Court.

(e) The High Court may, from time to time, make rules for the purposes of this section, and prescribing, with the concurrence of the Local Government, the fees to be taken under clauses (a), (b) and (c).

(f) Throughout British Burma, the Court of the Recorder of Rangoon shall, for the purposes of this section, be deemed to be the High Court.

(g) This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

5. A married woman, whether a minor or not, shall, by virtue of this Act, have power, as if she were unmarried and of full age, by a non-testamentary instrument, to appoint an attorney on her behalf, for the purpose of executing any non-testamentary instrument or doing any other act which she might herself execute or do; and the provisions of this Act, relating to instruments creating powers-of-attorney, shall apply thereto.

This section applies only to instruments executed after this Act comes into force.

6. The Trustees and Mortgagees Powers Act, Act XXVIII of 1866, 1866, section 39, is hereby repealed.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 11, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1882, and is hereby promulgated for General information:—

ACT No. VI OF 1882.

THE INDIAN COMPANIES ACT, 1882.

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SECOND SCHEDULE.

An Act for the incorporation, regulation and winding-up of Trading Companies and other Associations.

WHEREAS it is expedient to amend the law relating to the incorporation, regulation and winding-up of Trading Companies and other Associations; It is hereby enacted as follows:

PRELIMINARY.

1. This Act may be cited as "The Indian Companies Act, 1882":
 Short title. it extends to the whole of British India:
 Local extent. it shall come into force on the first day of May, 1882; and the time at which it comes into force is herein-after referred to as the commencement of this Act.
 Commencement.

2. On and from the commencement of this Act, the Indian Companies Act, 1866, shall be repealed. But such repeal shall not affect—

(a) the incorporation of any Company registered under the said Act or any Act thereby repealed;

(b) any right or privilege acquired or liability incurred under the said Act or any Act thereby repealed;

(c) table B in the schedule annexed to Act No. XIX of 1857 or any part thereof, so far as the same applies to any Company existing at the time of the commencement of this Act.

And all references to the said Indian Companies Act, 1866, in Acts or Regulations passed before the commencement of this Act shall be read as if made to this Act, and all rules made, fees directed, resolutions passed and other things duly done under the same Act shall be deemed to be respectively made, directed, passed and done under this Act; and all Companies under the same Act shall be deemed to be Companies under this Act.

3. In this Act, unless there be something repugnant in the subject or context,—

"Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses;

"Court" means the principal civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction;

"District Court" means the principal civil Court of original jurisdiction in a district, but does not include the High Court in the exercise of its ordinary original civil jurisdiction.

4. No Company, Association or Partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor General in Council, or by royal charter or Letters Patent; and no Company, Association or Partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

5. This Act is divided into nine Parts, relating to the following subject-matters:—

The first Part—to the constitution and incorporation of Companies and Associations under this Act;

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act;

The third Part—to the management and administration of Companies and Associations under this Act;

The fourth Part—to the winding-up of Companies and Associations under this Act;

The fifth Part—to the registration-office;

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations either with or without limited liability of the members thereof*), and Act No. VII of 1860 (*to enable Joint Stock Banking Companies to be formed on the principle of limited liability*), or either of them;

The seventh Part—to Companies authorized to register under this Act;

The eighth Part—to the application of this Act to unregistered Companies;

The ninth Part—to miscellaneous provisions.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

6. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated Company, with or without limited liability.

Explanation.—Foreigners are persons within the meaning of this section, although the whole or any part of the business of the proposed Company is intended to be transacted out of British India.

7. The liability of the members of a Company formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Where a Company is formed as a Limited Company, the liability of the directors or managers of such Company, or of the managing director, may, if so provided by the memorandum of association, be unlimited.

8. Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things (that is to say):—

- (a) the name of the proposed Company with the addition of the word "limited" as the last word in such name;
- (b) the part of British India in which the registered office of the Company is proposed to be situate;
- (c) the objects for which the proposed Company is to be established;
- (d) a declaration that the liability of the members is limited;
- (e) the amount of capital with which the Company proposes to be registered divided into shares of a certain fixed amount:

Subject to the following regulations:—

- (f) that no subscriber shall take less than one share;
- (g) that each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

9. Where a Company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up (hereinafter referred to as a Company limited by guarantee), the memorandum of association shall contain the following things (that is to say):—

- (a) the name of the proposed Company, with the addition of the word "limited" as the last word in such name;
- (b) the part of British India in which the registered office of the Company is proposed to be situate;
- (c) the objects for which the proposed Company is to be established

(d) a declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding a specified amount.

10. Where a Company is formed on the principle of having no limit placed on the liability of its members (hereinafter referred to as an unlimited Company), the memorandum of association shall contain the following things (that is to say):—

- (a) the name of the proposed Company;
- (b) the part of British India in which the registered office of the Company is proposed to be situate;
- (c) the objects for which the proposed Company is to be established.

11. The memorandum of association shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in the memorandum contained, on the part of himself, his heirs, executors and administrators, a contract to observe all the conditions of such memorandum subject to the provisions of this Act.

12. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by special resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid up shares into stock; but, save as aforesaid, and save as hereinafter provided, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

Reduction of Capital and Shares.

13. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital; but no such resolution for reducing the capital of any Company shall come into operation until an order of the Court is registered by the Registrar of joint stock Companies, as is hereinafter mentioned.

Explanation I.—The word “capital” includes paid up capital.

Explanation II.—The power to reduce capital conferred by this section includes a power to cancel any lost capital, or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the Company; and paid up capital may be reduced either with or without extinguishing or reducing the liability (if any) remaining on the shares of the Company; and, to the extent to which such liability is not extinguished or reduced, it shall be deemed to be preserved, notwithstanding anything hereinafter contained.

14. The Company shall, after the date of the passing of any special resolution for reducing its capital, add to its name, until such date as the Court may fix, the words “and reduced,” as the last words in its name, and those words shall, until such date, be deemed to be part of the name of the Company.

Company to add “and reduced” to its name for a limited period.

15. A Company which has passed a special resolution for reducing its capital may apply to the Court by petition for an order confirming the reduction, and, on the hearing of the petition, the Court, if satisfied that, with respect to every creditor of the Company who, under the provisions of this Act, is entitled to object to the reduction, either his consent to the reduction has been obtained, or his debt or claim has been discharged or has determined, or has been secured as hereinafter provided, may make an order confirming the reduction on such terms and subject to such conditions as it deems fit.

When the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction; and it shall not be necessary, before the presentation of any petition under this section, to add, and the Court may, if it thinks fit so to do, dispense with the addition of, the words “and reduced,” as mentioned in section fourteen.

In any case that the Court thinks fit so to do, it may require the Company to publish, in such manner as the Court thinks fit, the reasons for the reduction or such other information regarding the same as the Court may think expedient with a view to give proper information to the public in relation to such reduction, and if the Court thinks fit, the cause which led thereto.

16. Where a Company proposes to reduce its capital, every creditor of the Company who, at the date fixed by the Court, is entitled to any debt or claim which, if that date were the commencement of the winding-up of the Company, would be admissible in proof against the Company, shall be entitled to object to the proposed reduction, and to be entered

Creditors may object to reduction, and list of objecting creditors to be settled by Court.

in the list of creditors who are so entitled to object.

The Court shall settle a list of such creditors, and for that purpose shall ascertain as far as possible, without requiring an application from any creditor, the names of such creditors and the nature and amount of their debts or claims, and may publish notices fixing a certain day or days within which creditors of the Company who are not entered on the list are to claim to be so entered, or to be excluded from the right of objecting to the proposed reduction:

Provided that, when the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction.

17. Where a creditor whose name is entered on the list of creditors, and whose debt or claim is not discharged or determined, does not consent to the proposed reduction, the Court may (if it thinks fit) dispense with such consent on the Company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the Court may direct a sum of such amount as is hereinafter mentioned (that is to say):—

(a) If the full amount of the debt or claim of the creditor is admitted by the Company, or, though not admitted, is such as the Company are willing to set apart and appropriate, then the full amount of the debt or claim shall be set apart and appropriated.

(b) If the full amount of the debt or claim of the creditor is not admitted by the Company, and is not such as the Company are willing to set apart and appropriate, or if the amount is contingent or not ascertained, then the Court may, if it thinks fit, inquire into and adjudicate upon the validity of such debt or claim, and the amount for which the Company may be liable in respect thereof, in the same manner as if the Company were being wound up by the Court; and the amount fixed by the Court on such inquiry and adjudication shall be set apart and appropriated.

18. The Registrar of joint stock Companies, upon the production to him of an order of the Court confirming the reduction of the capital of a Company, and the delivery to him of a copy of the order and of a minute (approved by the Court), showing, with respect to the capital of the Company as altered by the order, the amount of such capital, the number of shares in which it is to be divided, and the amount of each share, and the amount (if any) at the date of the registration of the minute proposed to be deemed to have been paid up on each share, shall register the order and minute; and, on the registration, the special resolution confirmed by the order so registered shall take effect.

Order and minute to be registered.

Notice of such registration shall be published in such manner as the Court may direct.

The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to the reduction of capital have been complied with, and that the capital of the Company is such as is stated in the minute.

19. The minute, when registered, shall be deemed to be substituted for the corresponding part of the memorandum of association of the Company, and shall be of the same validity, and subject to the same alterations, as if it had been originally contained in the memorandum of association; and, subject as in this Act mentioned, no member of the Company, whether past or present, shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the minute.

20. If any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a Company under this Act is, in consequence of his ignorance of the proceedings taken with a view to such reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and after such reduction the Company is unable, within the meaning of this Act, to pay to the creditor the amount of such debt or claim, every person who was a member of the Company at the date of the registration of the order and minute relating to the reduction of its capital shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the Company had commenced to be wound up on the day prior to such registration;

and, on the Company being wound up, the Court, on the application of such creditor, and on proof that he was ignorant of the proceedings taken with a view to the reduction, or of their nature and effect with respect to his claim, may, if it thinks fit, settle a list of such contributories accordingly, and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories of the Company among themselves.

21. A minute, when registered, shall be embodied in every copy of the memorandum of association issued after its registration; and, if any Company makes default in complying with the provisions of this section, it shall incur a penalty not exceeding ten rupees for each copy in respect of which such default is made; and every director and manager of the Company who know-

ingly and wilfully authorizes or permits such default shall incur the like penalty.

22. If any director, manager or officer of the Company wilfully conceals the name of any creditor of the Company who is entitled to object to the proposed reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the Company, or if any director or manager of the Company abets, within the meaning of the Indian Penal Code, any such concealment or misrepresentation as aforesaid, every such director, manager or officer shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

23. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as to reduce its capital by cancelling any shares which, at the date of passing such resolution, have not been taken or agreed to be taken by any persons; and the provisions as to reduction of capital contained in the other sections of this Act shall not apply to any reduction made in pursuance of this section.

Sub-division of Shares.

24. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as, by sub-division of its existing shares or any of them, to divide its capital, or any part thereof, into shares of smaller amount than is fixed by its memorandum of association:

Provided that, in the sub-division of the existing shares, the proportion between the amount which is paid and the amount (if any) which is unpaid on each share of reduced amount shall be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived.

25. The statement of the number and amount of the shares into which the capital of the Company is divided, contained in every copy of the memorandum of association issued after the passing of any such special resolution, shall be in accordance with such resolution; and any Company which makes default in complying with the provisions of this section shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly or wilfully authorizes or permits such default shall incur the like penalty.

Associations not for Profit.

26. Where any association which might be formed under this Act as a limited Company proves to the Local Government that special provisions as to associations formed for purposes not of gain.

it is formed for the purpose of promoting commerce, art, science, charity, or any other useful object, and that it is the intention of such association to apply the profits, if any, or other income of the association, in promoting its objects, and to prohibit the payment of any dividend to its members, the Local Government may, by license under the hand of one of its Secretaries, direct such association to be registered with limited liability, without the addition of the word "limited" to its name; and such association may be registered accordingly, and upon registration shall enjoy all the privileges and be subject to the obligations by this Act imposed on limited Companies; with the exceptions that none of the provisions of this Act that require a limited Company to use the word "limited" as any part of its name, or to publish its name, or to send a list of its members, directors, or managers to the Registrar, shall apply to an association so registered.

The license by the Local Government may be granted upon such conditions and subject to such regulations as the Local Government thinks fit to impose; and such conditions and regulations shall be binding on the association, and may at the option of the Local Government be inserted in the memorandum and articles of association, or in both or one of such documents.

Calls upon Shares.

27. Nothing herein contained shall be deemed to prevent any Company under some shares fully paid, this Act, if authorized by its regulations as originally framed or as altered by special resolution, from doing any one or more of the following things, namely:—

(a) making arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid, and in the time of payment of such calls;

(b) accepting from any member of the Company who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him, either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made;

(c) paying dividend in proportion to the amount paid up on each share in cases where a larger amount is paid up on some shares than on others.

28. Every share in any Company shall be deemed and taken to have been issued and to be held subject to the payment of the whole amount thereof in cash, unless the same has been otherwise determined by a contract duly made in writing and filed with the Registrar of joint stock Companies at or before the issue of such shares.

Transfer of Shares.

29. A Company shall, on the application of the transferor of any share or interest in the Company, enter in its register of mem-

bers the name of the transferee of such share or interest in the same manner and subject to the same conditions as if the application for such entry were made by the transferee.

Share-warrants to Bearer.

30. In the case of a Company limited by shares, the Company, if authorized so to do by its regulations as originally framed or as altered by special resolution, and subject to the provisions of such regulations, may, with respect to any share which is fully paid up, or with respect to stock, issue under their common seal a warrant (hereinafter referred to as a share-warrant) stating that the bearer thereof is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on such shares or stock.

31. A share-warrant shall entitle the bearer thereof to the shares or stock specified therein; and such shares or stock may be transferred by the delivery of the share-warrant.

32. The bearer of a share-warrant shall, subject to the regulations of the Company, be entitled, on surrendering such warrant for cancellation, to have his name entered as a member in the register of members; and the Company shall be responsible for any loss incurred by any person by reason of the Company entering in its register of members the name of any bearer of a share-warrant in respect of the shares or stock specified therein without the share-warrant being surrendered and cancelled.

33. The bearer of a share-warrant may, if the regulations of the Company so provide, be deemed to be a member of the Company within the meaning of this Act, either to the full extent or for such purposes as may be prescribed by the regulations:

Provided that the bearer of a share-warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a director or manager of the Company in cases where such a qualification is prescribed by the regulations of the Company.

34. On the issue of a share-warrant in respect of any share or stock, the Company shall strike out of its register of members the name of the member then entered therein as holding such share or stock, as if he had ceased to be a member, and shall enter in the register the following particulars:—

- (a) the fact of the issue of the warrant;
- (b) a statement of the shares or stock included in the warrant, distinguishing each share by its number;
- (c) the date of the issue of the warrant.

35. There shall be charged on every share-warrant a stamp-duty of an amount equal to three times the amount of the *ad valorem* stamp-duty which would be chargeable on an instrument transferring the shares or stock specified in the warrant if the consideration for the transfer were the nominal value of such shares or stock.

If a share-warrant is issued without being duly stamped, the Company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the Company, shall forfeit the sum of five hundred rupees.

Change of Name.

36. Any Company under this Act, with the sanction of a special resolution of the Company passed in manner hereinafter mentioned, and with the approval of the Local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Explanation.—The issue of the certificate of incorporation is necessary to complete the change of name.

Articles of Association.

37. The memorandum of association may, in the case of a Company limited by shares, and shall, in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by articles of association signed by the subscribers to the memorandum of association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient.

The articles shall be expressed in separate paragraphs, numbered consecutively. They may adopt all or any of the provisions contained in the table marked A in the first schedule hereto. They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company proposes to be registered, and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the

purpose of enabling the Registrar to determine the fees payable on registration.

In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

38. In the case of a Company limited by shares, if the memorandum of association is not accompanied by articles of association, or,

Application of table A. in so far as the articles do not exclude or modify the regulations contained in the table marked A in the first schedule hereto, the last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company, in the same manner and to the same extent as if they had been inserted in articles of association and the articles had been duly registered.

39. The articles of association shall be printed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least.

When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto and as if such articles contained a contract on the part of himself, his heirs, executors and administrators to conform to all the regulations contained in such articles subject to the provisions of this Act.

All monies payable by any member to the Company in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General Provisions.

40. The memorandum of association, and the articles of association, if any, shall be delivered to the Registrar of joint stock Companies hereinafter mentioned, who shall retain and register the same. It is not his duty to require evidence as to whether the several subscribers to a memorandum of association so delivered are competent to contract.

There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the table marked B in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the table marked C in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct.

All fees paid to the said Registrar in pur-

suance of this Act shall be accounted for to Government.

41. Upon the registration of the memorandum of association, and of the articles of association in cases where articles of association are required by this Act or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a limited Company that the Company is limited: the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company, in the event of the same being wound up, as is hereinafter mentioned.

A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

42. A copy of the memorandum of association, having annexed thereto the articles of association, if any, shall be forwarded to every member, at his request, on payment of such sum, not exceeding one rupee, as may be prescribed by the Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and articles of association, if any, to a member in pursuance of this section, the Company so making default shall for each such offence incur a penalty not exceeding twenty rupees.

43. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires.

If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the sanction of the Registrar, change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or

commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

44. The shares or other interest of any member in a Company under this Act shall be moveable property, capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate or immoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

45. The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration of the Company shall be entered as members on the register of members hereinafter mentioned; and every other person who has agreed with a Company under this Act to become a member of such Company, and whose name is entered on the register of members, shall be deemed to be a member of the Company.

46. Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

47. Every Company under this Act shall cause to be kept in one or more books a register of its members, and there shall be entered therein the following particulars:—

(a) the names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(b) the date at which the name of any person was entered in the register as a member;

(c) the date at which any person ceased to be a member.

Where a share-warrant has been issued under section thirty, until the warrant is surrendered, the particulars mentioned in section thirty-four

shall be deemed to be the particulars which are required by this section to be entered in the register of members of a Company; and, on the surrender of a warrant, the date of such surrender shall be entered as if it were the date at which a person ceased to be a member.

Any Company acting in contravention of this section shall incur a penalty not exceeding fifty rupees for every day during which its default in complying with the provisions of this section continues, and every director or manager of the Company who knowingly and wilfully authorizes or permits such contravention shall incur the like penalty.

48. Every Company under this Act and having a capital divided into shares shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting, or, if there is more than one ordinary general meeting in each year, the first of such ordinary general meetings, is held, are members of the Company. Such list shall state the names, addresses and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:—

- (a) the amount of the capital of the Company and the number of shares into which it is divided;
- (b) the number of shares taken from the commencement of the Company up to the date of the summary;
- (c) the amount of calls made on each share;
- (d) the total amount of calls received;
- (e) the total amount of calls unpaid;
- (f) the total amount of shares forfeited;
- (g) the names, addresses and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the register, and shall be completed within seven days after such fourteenth day as is mentioned in this section; and a copy shall forthwith be forwarded to the Registrar of joint stock Companies.

49. After the issue by the Company of a share-warrant, the annual summary required by section forty-eight shall contain the following particulars (namely):—the total amount of shares or stock for which share-warrants are outstanding at the date of the summary, and the total amount of share-warrants which have been issued and surrendered respectively since the last summary was made, and the number of shares or amount of stock comprised in each warrant.

50. If any Company under this Act and having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of mem-

bers or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

51. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall, within fifteen days of such consolidation, division or conversion, give notice to the Registrar of joint stock Companies of the same, specifying the shares so consolidated, divided or converted.

52. Where any Company under this Act and having a capital divided into shares has converted any portion of its capital into stock and given notice of such conversion to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the register of members hereby required to be kept by the Company and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list, instead of the amount of shares and the particulars relating to shares hereinbefore required.

53. No notice of any trust, express, implied or constructive, shall be entered on the register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

54. A certificate under the common seal of the Company, specifying any shares or stock held by any member of a Company, shall be *prima facie* evidence of the title of the member to the share or shares or stock therein specified.

55. The register of members, commencing from the date of the registration of the Company, shall be kept at the registered office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in general meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee, or such less sum as the Company may prescribe, for each inspection.

Every such member or other person may require a copy of such register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied.

If such inspection or copy is refused, the Com-

pany shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

Every director and manager of the Company who knowingly authorizes or permits such refusal shall incur the like penalty.

In addition to the above penalty any Judge of a High Court may by order compel an immediate inspection of the register.

56. Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating in the district in which the registered office of the Company is situate and in the local official Gazette, close the register of members for any time or times not exceeding in the whole thirty days in each year.

57. Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and where a Company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital, within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and in the case of an increase of members, within fifteen days from the time at which such increase of members has been resolved on or has taken place; and the Registrar shall forthwith record the amount of such increase of capital or members.

If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day during which such neglect to give notice continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

58. If the name of any person is fraudulently or without sufficient cause entered in, or omitted from, the register of members kept by any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original civil jurisdiction in the district or place in which the registered office of the Company is situate, apply for an order of the Court that the register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained.

The Court may in any proceeding under this section decide any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and whether there has or has not been default on the part of the Company; and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the register: Provided that the Court may direct an issue to be tried in which any question of law may be raised; and an appeal in the manner directed by the Code of Civil Procedure shall lie.

59. Whenever any order has been made for rectifying the register in the case of a Company hereby required to send a list of its members to the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

60. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Liability of Members.

61. In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company and the costs, charges and expenses of the winding-up, and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following, (that is say):—

(a) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up:

(b) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

(c) No past member shall be liable to contribute to the assets of the Company unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(d) In the case of a Company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(e) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking

entered into on his behalf by the memorandum of association:

(f) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract:

(g) No sum due to any member of a Company in his character of a member, by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

Explanation I.—The liability of past members is a liability to contribute to the general assets of the Company, against which assets creditors (at whatever time their debts may have been contracted) have equal rights.

Explanation II.—In estimating the debts to which a past member is liable, all dividends paid on these debts under the winding-up must be deducted.

62. With respect to the contributions to be required in the event of the winding-up of a limited Company from any director or manager whose liability is unlimited, the following modifications shall be made in the last preceding section:—

(a) Subject to the provisions hereinafter contained, any such director or manager, whether past or present, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to contribute as if he were at the date of the commencement of such winding-up a member of an unlimited Company:

(b) No contribution required from any past director or manager who has ceased to hold such office for a period of one year or upwards prior to the commencement of the winding-up shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company:

(c) No contribution required from any past director or manager in respect of any debt or liability of the Company contracted after the time at which he ceased to hold such office shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company:

(d) Subject to the provisions contained in the regulations of the Company, no contribution required from any director or manager shall exceed the amount (if any) which he is liable to contribute as an ordinary member, unless the Court thinks it necessary to require such contribution in order to satisfy the debts and liabilities of the Company, or the costs, charges and expenses of the winding-up.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

63. Every Company under this Act shall have a registered office to which all communications and notices may be addressed. If any Company under this Act carries on business without having such an office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

64. Notice of the situation of such registered office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered office.

65. Every limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible, in the English language, and also, if the registered office be situate in a district beyond the local limits of the ordinary original civil jurisdiction of a High Court, in one of the vernacular languages used in such district, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements and other official publications of such Company, and in all bills of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

66. If any limited Company under this Act does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed.

Every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to the like penalty.

If any director, manager or officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company any bill

of exchange, hundi, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the Company.

Contracts.

67. Contracts on behalf of any Company under this Act may be made as follows (that is to say):—

(a) Any contract, which if made between private persons would be by law required to be in writing, and, if made according to English law, to be under seal, may be made on behalf of the Company in writing under the common seal of the Company; and such contract may be in the same manner varied or discharged:

(b) Any contract, which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company; and such contract may in the same manner be varied or discharged:

(c) Any contract, which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company; and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

68. Every limited Company under this Act shall keep a register of all mortgages and charges specifically affecting property of the Company, and shall enter in such register, in respect of each mortgage or charge, a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge.

If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every director, manager or other officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees.

The register of mortgages required by this section shall be open to inspection by any creditor or member of the Company at all reasonable times.

If such inspection is refused, any officer of the Company refusing the same, and every director and manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

The High Court or any Judge thereof may by order compel the performance of the duty imposed by this section on a limited Company, and in addition to the above penalty may by order compel an immediate inspection of the register.

Explanation.—Omission to register under this section a mortgage or charge does not render the same invalid. But the officers of the Company cannot avail themselves as such of a mortgage or charge specifically affecting property of the Company and not so registered.

69. Every limited banking Company, and every insurance Company, and every provident or benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first schedule hereto, or as near thereto as circumstances will admit; and a copy of such statement shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on.

If default is made in compliance with the provisions of this section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this section shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding eight annas.

70. Every Company under this Act and not having a capital divided into shares shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and shall send to the Registrar of joint stock Companies a copy of such register, and shall from time to time notify to the Registrar any change that takes place in such directors or managers.

71. If any Company under this Act and not having a capital divided into shares makes default in keeping a register of its directors or managers, or in sending a copy of such register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such directors or managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues; and every

director or manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

72. A promissory note, bill of exchange or hundi shall be deemed to have been made, drawn, accepted or endorsed on behalf of any Company under this Act, if made, drawn, accepted or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, drawn, accepted or endorsed by or on behalf or on account of the Company by any person acting under the authority of the Company.

73. If any Company under this Act carries on business when the number of its members is less than seven, for a period of six months after the number has been so reduced, every person who is a member of such Company during the time that it so carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time, and may be sued for the same without the joinder in the suit of any other member.

Provisions for Protection of Members.

74. A general meeting of every Company under this Act shall be held once at the least in every year.

A balance-sheet shall be made out and filed with the Registrar of joint stock Companies within twelve months after the Company has been registered, and once at least in every year afterwards within twelve months from the filing of the balance-sheet immediately preceding; and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table A in the first schedule hereto, or as near thereto as circumstances admit.

And once at the least in every year the accounts of the Company shall be examined and the correctness of the last balance-sheet and its conformity with the law ascertained and certified by one or more auditor or auditors.

No balance-sheet shall be filed with the Registrar unless and until its correctness and conformity with the law have been so ascertained and certified, and it has been laid before and adopted by the Company in general meeting.

If default is made in compliance with any of the provisions of this section, every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to a penalty of one thousand rupees.

Meetings.

75. Every Company formed under this Act after the commencement of this Act shall hold a general meeting within six months after its memorandum of association is registered;

and, if such meeting is not held, the Company shall be liable to a penalty not exceeding fifty rupees a day for every day after the expiration of such four months, until the meeting is held; and every director or manager of the Company and every subscriber of the memorandum of Association who knowingly authorizes or permits such default shall be liable to the same penalty.

76. Subject to the provisions of this Act and to the conditions contained in the memorandum of association, any Company formed under this Act or the Indian Companies Act, 1866, may, in general meeting, from time to time, by passing a special resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the articles of association, or in the table marked A in the first schedule, where such table is applicable to the Company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the Company.

Any regulations so made by special resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the articles of association, and shall be subject in like manner to be altered or modified by any subsequent special resolution.

Any limited Company formed under this Act or the Indian Companies Act, 1866, may by a special resolution, if authorized to do so by its regulations as originally framed or as altered by special resolution, from time to time modify the conditions contained in its memorandum of association so far as to render unlimited, from and after the date of such resolution, the liability of its directors or managers, or of the managing director. Such special resolution shall be of the same validity as if it had been originally contained in the memorandum of association, and a copy thereof shall be embodied in or annexed to every copy of the memorandum of association which is issued after the passing of the resolution.

77. A resolution passed by a Company under this Act shall be deemed to be special whenever a resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed) at any general meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent general meeting, of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such resolution was first passed.

At any meeting mentioned in this section, unless a poll is demanded by at least five members, a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same.

Notice of any meeting shall, for the purposes of this section, be deemed to be duly given, and the meeting to be duly held whenever such notice is given and meeting held in manner prescribed by the regulations of the Company.

In computing the majority under this section when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

78. In default of any regulations as to voting,

Provision where no regulations as to meetings. every member shall have one vote, and, in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the table marked A in the first schedule hereto.

In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and, in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

79. A copy of every special resolution that

Registration of special resolutions. is passed by any Company under this Act shall be printed and forwarded to the Registrar of joint stock Companies and be recorded by him.

If such copy is not so forwarded within fifteen days from the date of the confirmation of the resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

80. Where articles of association have been

Copies of special resolutions to be embodied in articles of association. registered, a copy of every special resolution for the time being in force shall be annexed to or embodied in every copy of the articles of association that may be issued after the passing of such resolution. Where no articles of association have been registered, a copy of every special resolution shall be forwarded in print to any member requesting the same on payment of one rupee or such less sum as the Company may direct.

If any Company makes default in complying with the provisions of this section or section seventy-six, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

81. Any Company under this Act may, by its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such attorney on behalf of the Company and under his seal shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

82. The Local Government may appoint one

Examination of affairs of any Company by inspectors. or more competent inspectors to examine into the affairs of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following (that is to say):—

(a) In the case of a banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued:

(b) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the register of the Company as members.

83. The application shall be supported by such

Application for inspection to be supported by evidence. evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same.

The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any inspector or inspectors.

84. It shall be the duty of all officers and

Inspection of books. agents of the Company to produce for the examination of the inspectors all books and documents in their custody or power.

Any inspector may examine upon oath the officers and agents of the Company in relation to its business.

If any such officer or agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each such offence.

85. Upon the conclusion of the examination,

Result of examination. the inspectors shall report their opinions to the Local Government. Such report shall be written or printed as the Local Government directs.

A copy shall be forwarded by the Local Government to the registered office of the Company, and a further copy shall, at the request of the mem-

bers upon whose application the inspection was made, be delivered to them or to any one or more of them.

All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

86. Any Company under this Act may, by a special resolution, appoint inspectors for the purpose of examining into the affairs of the Company.

The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in general meeting directs.

The officers and agents of the Company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the Local Government.

87. A copy of the report of any inspectors appointed under this Act to be evidence. Report of inspectors appointed under this Act to be evidence. authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in such report.

88. Every prospectus of a Company, and every notice inviting persons to subscribe for shares in any joint stock Company, shall specify the dates and the names of the parties to any agreement enforceable by law which has been entered into by the Company, or the promoters, directors or trustees thereof, before the issue of such prospectus or notice (whether subject to adoption by the directors or the Company, or otherwise), and which might reasonably influence a person in determining whether he would or would not become a shareholder in the Company; and any prospectus or notice not specifying the same shall be deemed fraudulent on the part of the promoters, directors and officers of the Company knowingly issuing the same, as regards any person taking shares in the Company on the faith of such prospectus, unless he has had notice of such contract.

Notices.

89. Any summons, notice, order or other document required to be served upon the Company may be served by leaving the same, or sending it through the post by a registered letter addressed to the Company, at their registered office; and any notice to the Registrar of joint stock Companies

may be served by sending it to him through the post by a registered letter, or by delivering it to him or by leaving it for him at his office.

90. Every document to be served by post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and, in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the post office.

91. Any summons, notice, order or proceeding requiring authentication by the Company may be signed by any director, secretary or other authorized officer of the Company, and need not be under the common seal of the Company; and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

92. Every Company under this Act shall cause minutes of all resolutions and proceedings of general meetings of the Company, and of the directors or managers of the Company in cases where there are directors or managers, to be duly entered in books to be from time to time provided for the purpose; and any such minute as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings.

Until the contrary is proved, every general meeting of the Company or meeting of directors or managers in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had, and all appointments of directors, managers or liquidators shall be deemed to be valid, and all acts done by such directors, managers or liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Explanation.—Nothing in this section shall be deemed to give validity to acts done by a liquidator after his appointment has been shown to be invalid.

93. Where a limited Company is plaintiff in any suit, if it appears from the evidence adduced that there is reason to believe that, if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, any Judge having jurisdiction in the matter may require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

94. In any suit brought by the Company against any member to recover any call or other monies

due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Alteration of Forms.

95. The forms set forth in the second schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer.

The Governor General in Council may from time to time make such alterations in the tables and forms contained in the first schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said schedule mentioned, and in the forms in the second schedule, or make such additions to the last-mentioned forms, as he deems requisite.

Any such table or form, when altered, shall be published in the *Gazette of India*, and, upon such publication being made, such table or form shall have the same force as if it were included in the schedule to this Act; but no alteration made by the Governor General in Council in the table marked A contained in the first schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such table.

Arbitrations.

96. Any Company under this Act may from time to time, by writing under its common seal, agree to refer, and may refer, to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons, to whom the reference is made, power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the directors or other managing body of such Companies.

97. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions or stipulations thereof.

98. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

99. Where the Companies agree, the reference shall be made to a single arbitrator.

100. Except where the Companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows, to wit:—

where there are two Companies, the reference shall be made to two arbitrators;

where there are three or more Companies, the reference shall be made to so many arbitrators as there are Companies.

101. Where there are to be two or more arbitrators, every Company shall by writing under their common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other Company or Companies.

102. Where there are to be two or more arbitrators, if any of the Companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an arbitrator, may appoint an arbitrator. The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

103. Where the reference is made to two or more arbitrators, if before the matters referred to them to supply vacancies, are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

104. Where the Company, by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an arbitrator.

The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

105. When any appointment of an arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

106. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands

an impartial and qualified person to be their umpire.

107. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an umpire; and the umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators.

108. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

109. If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their umpire, then, on the application of the Companies or any of them, the Local Government may appoint an umpire.

The umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators so failing.

110. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

111. Where there are two or more arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

112. The arbitrator, and the arbitrators, and the umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath.

113. Except where and as the Companies otherwise agree, the arbitrator, and the arbitrators and the umpire respectively may proceed in the business

of the reference in such manner as he and they respectively shall think fit.

114. The arbitrator, and the arbitrators and the umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the arbitrator, or the arbitrators or the umpire shall think fit so to proceed.

115. The arbitrator, and the arbitrators and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred.

Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or, in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

116. The award of the arbitrator, or of the arbitrators or of the umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators or the umpire, shall be binding and conclusive on all the Companies.

117. Provided always that (except where and as the Companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

118. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

119. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered shall be done, omitted or suffered accordingly.

120. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act; and

the performance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

121. Except where and as the Companies otherwise agree, the costs of arbitration and attending the arbitration and the award shall be in the discretion of the arbitrator, and the arbitrators and the umpire respectively.

122. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

123. On the application of any party interested, the submission to any such arbitration may be filed in the High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

124. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

125. The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful, in the case of the insolvency of any contributory, to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes situate outside the towns of Calcutta, Madras and Bombay.

126. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives,

heirs and devisees shall be liable in due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory; and such personal representatives, heirs and devisees shall be deemed to be contributories accordingly.

127. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

Winding-up by Court.

128. A Company under this Act may be wound up by the Court as hereinafter defined under the following circumstances (that is to say):—

- (a) whenever the Company has passed a special resolution requiring the Company to be wound up by the Court;
- (b) whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year;
- (c) whenever the members are reduced in number to less than seven;
- (d) whenever the Company is unable to pay its debts;
- (e) whenever for any other reason of a like nature the Court is of opinion that it is just and equitable that the Company should be wound up.

129. A Company under this Act shall be deemed to be unable to pay its debts—

- (a) whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at its registered office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor;
- (b) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company is returned unsatisfied in whole or in part;
- (c) whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

130. The expression "the Court" as used in this Part of this Act shall mean the principal Court having original civil jurisdiction in the place in

which the registered office of the Company is situate, unless in the regulations for the management of the Company it shall be stipulated that the Company, if wound up, shall be wound up by the High Court of Judicature at Fort William, Madras or Bombay (as the case may be), or by the Chief Court of the Panjáb, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original civil jurisdiction.

The expression "debts" as used in this Part of this Act means debts actually due, of which the creditor could claim immediate payment, except in the case of a Company issuing or liable under policies of assurance upon human life within British India, or granting annuities upon human life within British India. In the case of such a Company (hereinafter called a life-assurance Company), the expression "debts," as so used, includes also contingent or prospective liability under policies and annuity and other existing contracts.

131. Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories, of the Company, or by all or any of the above parties, together or separately.

The petition must allege facts which, if proved, will justify an order for winding-up the Company. Every order which may be made on any such petition shall operate in favour of all the creditors and all the contributories of the Company in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

In the case of a life-assurance Company the Court shall not give a hearing to the petition until security for costs for such amount as the Judge thinks reasonable is given, and until a *prima facie* case is also established to the satisfaction of the Judge; and, where the Company has an uncalled capital of an amount sufficient, with the future premiums receivable by the Company, to make up the actual invested assets equal to the amount of the estimated liabilities, the Court shall suspend further proceedings on the petition for a reasonable time to enable the uncalled capital, or a sufficient part thereof, to be called up; and, if at the end of the original or any suspended time for which the proceedings have been suspended such an amount has not been realised by means of calls as with the already invested assets is equal to the liabilities, an order shall be made on the petition as if the Company had been proved to be unable to pay its debts.

Explanation.—Nothing in this section authorizes the presentation of a petition by a member of a Company who is indebted to the Company in respect of a call made, or other moneys due.

132. No contributory of a Company under this Act shall be capable of presenting a petition for winding-up such Company unless the members of the Company

Contributory when not qualified to present winding-up petition.

are reduced in number to less than seven, or unless the shares in respect of which he is a contributory, or some of them, either were originally allotted to him, or have been held by him, and registered in his name, for a period of at least six months during the eighteen months previous to the commencement of the winding-up, or have devolved upon him through the death of a former holder:

Provided that, where a share has, during the whole or any part of the six months, been held by or registered in the name of the wife of a contributory either before or after her marriage, or by or in the name of any trustee for such wife, or for the contributory, such share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the contributory.

133. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

134. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act, and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit.

The Court may also at any time after the presentation of such petition, and before the first appointment of liquidators, appoint provisionally an official liquidator of the estate and effects of the Company.

135. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

136. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company except with the leave of the Court and subject to such terms as the Court may impose.

137. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of joint stock Companies, who shall make a minute thereof in his books relating to the Company.

Such order shall be deemed to be notice of discharge to the servants of the Company, except when the business of the Company is continued.

138. Such Court may, at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such

Power of Court to stay proceedings.

winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

139. When an order has been made for winding-up a Company limited by guarantee and having a capital divided into shares, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

140. The Court may, as to all matters relating to the winding-up, have regard to the wishes of creditors or contributories as proved to it by any sufficient evidence, and may, if it thinks fit, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard is to be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

Official Liquidators.

141. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court therein, there may be appointed a person or persons, to be called an official liquidator or official liquidators.

The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidator or official liquidators.

In all cases, if more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act hereby required or authorized to be done by the official liquidator is to be done by all or any one or more of such persons.

The Court may also determine whether any, and what, security is to be given by any official liquidator on his appointment.

If no official liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

A receiver shall not be appointed of assets in the hands of an official liquidator.

142. Any official liquidator may resign or be removed by the Court on due cause shown. Any vacancy in the office of an official liquidator appointed by the Court shall be filled up

by the Court. There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and, if more liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

143. The official liquidator shall be described by the style of the official liquidator of the particular Company in respect of which he is appointed, and not by his individual name. He shall take into his custody, or under his control, all the property, effects and actionable claims to which the Company is or appears to be entitled, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

144. The official liquidator shall have power, with the sanction of the Court, to do the following things:—

(a) to bring or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the Company;

(b) to carry on the business of the Company so far as may be necessary for the beneficial winding-up of the same;

(c) to sell the immovable and moveable property of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels;

(d) to do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the Company's seal;

(e) to prove, rank, claim and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateably with the other separate creditors;

(f) to draw, accept, make and endorse any bill of exchange, hundi or promissory note in the name and on behalf of the Company; also to raise, upon the security of the assets of the Company, from time to time, any requisite sum or sums of money; and the drawing, accepting, making or endorsing of every such bill, hundi or note as aforesaid on behalf of the Company shall have the same effect with respect to the liability of such Company as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such Company in the course of carrying on the business thereof;

(g) to take out, if necessary, in his official name, letters of administration to the estate of any deceased contributory, and to do, in his official name, any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and, in all cases where he takes out letters of

administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the official liquidator himself: Provided that nothing herein contained shall be deemed to affect the rights, duties and privileges of the Administrators General of Bengal, Madras and Bombay respectively;

(4) to do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

145. The Court may provide by any order Discretion of official liquidator. that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

146. The official liquidator may, with the sanction of the Court, appoint an attorney or vakil to assist him in the performance of his duties: Provided that, where the official liquidator is an attorney, he shall not appoint his partner, unless the latter consents to act without remuneration.

Ordinary Powers of Court.

147. As soon as may be after making an order Collection and application for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in pursuance of section fifty-eight, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities existing at the date of the said order.

148. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of, or being liable to the debts of, others.

149. The Court may, at any time after making an order for winding-up a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker or agent or officer of the Company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the official liquidator, any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being, and to which the Company is *prima facie* entitled.

150. The Court may, at any time after making an order for winding-up the Company, make an order on any contributory for the

time being settled on the list of contributories directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he, or the estate of the person whom he represents, may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this part of this Act.

The Court may, in making such order, when the Company is not limited, allow to such contributory, by way of set-off, any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits:

Provided that, when all the creditors of any Company, whether limited or unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

In the event of the winding-up of any limited Company, the Court, if it thinks fit, may make to any director or manager of such Company whose liability is unlimited the same allowance by way of set-off as under this section it may make to a contributory where the Company is not limited.

151. The Court may, at any time after making an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on, and order payment thereof by, all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves.

The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

152. The Court may order any contributory, purchaser or other person from whom money is due to the Company to pay the same into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the official liquidator instead of to the official liquidator; and such order may be enforced in the same manner as if it had directed payment to the official liquidator.

153. All monies, bills, hundis, notes and other securities paid and delivered into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be

subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same as the Court may direct.

154. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereof of the monies due.

155. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due; and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

156. The Court may fix a certain day or certain days on or within which creditors of the Company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

157. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.

158. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company of the costs, charges and expenses incurred in winding-up any Company in such order of priority as the Court thinks just.

159. When the affairs of the Company have been completely wound up, the Court shall make an order that the Company be dissolved from the date of such order, and the Company shall be dissolved accordingly.

160. Any order so made shall be reported by the Registrar to make the official liquidator to the minute of dissolution of Company. Registrar, who shall make a minute accordingly in his books of the dissolution of such Company.

161. If the official liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred rupees for every day during which he is so in default.

Extraordinary Powers of Court.

162. The Court may, after it has made an order for winding-up the Company, summon before it any officer of the Company, or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the Company.

If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination.

The Court may require any such officer or person to produce any documents in his custody or power relating to the Company. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

163. The Court may examine upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid concerning the affairs, dealings, estate or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

164. The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

165. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate; and such proceedings may be instituted accordingly.

Enforcement of, and Appeal from, Orders.

166. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

167. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India, other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

168. Where any order or decree made by one Court is required to be enforced by another Court as hereinbefore provided, a certified copy of the order or decree so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made; and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

169. Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding-up of a Company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil Procedure, unless such time is extended by the Court of appeal.

170. In all proceedings under this Part of this Act, every Court, Judge and person judicially acting, and all other officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any officer of any other Court, and also of the official seal of any other Court, when such seal is appended to any document made, issued or signed under the provisions of this Part of this Act, or any official copy thereof.

171. The Judges of the District Courts, who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any

Company is wound up in a High Court; and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company.

Every such Commissioner shall, in addition to any power of summoning and examining witnesses and requiring the production or delivery of documents and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses, and requiring the production or delivery of documents, and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

172. If any affidavit, affirmation or declaration, required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any colony, island, plantation or place under the dominion of Her Majesty in foreign parts, before any Court, Judge or person lawfully authorized to take and receive affidavits, affirmations or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions, all Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Part of this Act.

Voluntary Winding-up of Company.

173. A Company under this Act may be wound up voluntarily—

(a) whenever the period, if any, fixed for the duration of the Company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the articles of association that the Company is to be dissolved, and the Company in general meeting has passed a resolution requiring the Company to be wound up voluntarily;

(b) whenever the Company has passed a special resolution requiring the Company to be wound up voluntarily;

(c) whenever the Company has passed an extraordinary resolution to the effect that it has been proved to its satisfaction that the Company cannot by reason of its liabilities continue its

business, and that it is advisable to wind up the same:

For the purposes of this Act any resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a special resolution as hereinbefore defined.

174. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution authorizing such winding-up. When the winding-up is in pursuance of a special resolution, it shall be deemed to commence at the time of the passing, under section seventy-seven, of the confirmatory resolution.

175. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up, cease to carry on its business except in so far as may be required for the beneficial winding-up thereof; and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alteration in the status of the members of the Company, taking place after the commencement of such winding-up, shall be void; but its corporate state and all its corporate powers shall, notwithstanding that its regulations otherwise provide, continue until the affairs of the Company are wound up.

176. Notice of any special resolution or extraordinary resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local official Gazette, and also in some newspaper (if any) circulating in the place where the registered office of the Company is situated.

177. The following consequences shall ensue upon the voluntary winding-up of a Company:—

(a) the assets of the Company shall be applied in satisfaction of its liabilities *pari passu* as they exist at the commencement of the winding-up, and subject thereto shall, unless the regulations of the Company otherwise provide, be distributed amongst the members according to their rights and interests in the Company;

(b) liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the assets;

(c) the Company in general meeting shall appoint such persons as it thinks fit to be liquidators, and may fix the remuneration to be paid to them;

(d) if one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him;

(e) upon the appointment of liquidators, all the powers of the directors shall cease, except in so far as the Company in general meeting, or the liquidators, may sanction the continuance of such powers:

(f) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two;

(g) the liquidators may, without the sanction of the Court, exercise all powers by this Act given to the official liquidators:

(h) the liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the Company, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories:

(i) the liquidators may, at any time after the passing of the resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(j) the liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

178. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the liquidators.

179. A Company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an extraordinary resolution, delegate to its creditors, or to any committee of its creditors, the power of appointing liquidators or any of them, and supplying any vacancies in the appointment of liquidators, or may, by a like resolution, enter into any arrangement with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised.

Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

180. Any arrangement which a Company about to be wound up voluntarily, or in the course of being wound up voluntarily, shall have entered into with its creditors shall be binding on the Company if sanctioned by an extraordinary

nary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is herein-after mentioned.

181. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary or confirm the same.

182. Where a Company is being wound up voluntarily, the liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise, as respects the enforcing of calls or in respect of any other matter, all or any of the powers which the Court might exercise if the Company were being wound up by the Court. Any such application may be made by motion. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

183. Where a Company is being wound up voluntarily, the liquidators may, from time to time, during the continuance of such winding-up, summon general meetings of the Company for the purpose of obtaining the sanction of the Company by special resolution or extraordinary resolution, or for any other purposes they think fit.

In the event of the winding-up continuing for more than one year, the liquidators shall summon a general meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding-up has been conducted, during the preceding year.

184. If any vacancy occurs in the office of liquidators appointed by the Company, by death, resignation or otherwise, the Company in general meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy; and a general meeting for the purpose of filling up such vacancy may be convened by the continuing liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing liquidator, if any, or by any contri-

butory of the Company, be determined by the Court.

185. If, from any cause whatever, there is no liquidator acting in the case of a voluntary winding-up, the Court may, on the application of a contributory, appoint a liquidator or liquidators. The Court may also, on due cause shown, remove any liquidator and appoint another liquidator to act in the matter of a voluntary winding-up.

186. As soon as the affairs of the Company are fully wound up, the liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of; and thereupon they shall call a general meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the liquidators.

The meeting shall be called by advertisement, specifying the time, place and object of such meeting, and such advertisement shall be published one month at least previously to the meeting in the manner specified in section one hundred and seventy-six.

187. The liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held; and, on the expiration of three months from the date of the registration of such return, the Company shall be deemed to be dissolved.

If the liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

188. All costs, charges and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the liquidators, shall be payable out of the assets of the Company in priority to all other claims.

189. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

190. Where a Company is in course of being wound-up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound-up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Winding-up subject to the Supervision of the Court.

191. When a resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions, as the Court thinks just.

192. A petition praying wholly or in part that a voluntary winding-up shall continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding-up the Company by the Court.

193. The Court may, in determining whether a Company is to be wound up altogether by the Court, or subject to the supervision of the Court, in the appointment of a liquidator or of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned, held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard shall be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

194. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional liquidator.

Any liquidator so appointed by the Court shall have the same powers, be subject to the same obligations and in all respects stand in the same position, as if he had been appointed by the Company.

The Court may, from time to time, remove any liquidator so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

195. Where an order is made for a winding-up subject to the supervision of the Court, the liquidator appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily.

Save as aforesaid, any order made by the Court for a winding-up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court.

In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidators, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding-up subject to the supervision of the Court.

196. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other person, to be official liquidators.

Supplemental Provisions.

197. Where any Company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding-up and the order for winding-up, shall, unless the Court otherwise orders, be void.

198. Where any Company is being wound up, all books, accounts and documents of the Company and of the liquidators shall, as between the contributories of the Company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

199. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the Company and of the liquidator may be disposed of in the following way; that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and, where the Company has been wound up voluntarily, in such way as the Company by an extraordinary resolution directs.

But, after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

200. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

201. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the liquidator may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, whereby the Company may be rendered liable.

202. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the liquidator to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

203. Where any compromise or arrangement shall be proposed between a Company which is, at the commencement of this Act or afterwards, in the course of being wound up either voluntarily or by or under the supervision of the Court, and the creditors of such Company, or any class of such creditors, it shall be lawful for the Court, in addition to any other of its powers, on the application in a summary way of any creditor or the liquidator, to order that a meeting of such creditors or class of creditors shall be summoned in such manner as the Court shall direct; and, if a majority in number, representing three-fourths in value, of such creditors or class of creditors present either in person or by proxy at such meeting shall agree to any arrangement or compromise, such arrangement or compromise shall, if sanctioned by an order of the Court, be

binding on all such creditors or class of creditors, as the case may be, and also on the liquidator and contributories of the said Company.

204. Where any Company is proposed to be, or is in the course of being, wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the liquidators of the first-mentioned Company may, with the sanction of a special resolution of the Company by whom they were appointed, conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, receive, in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of, or receive any other benefit from, the purchasing Company.

Any sale made, or arrangement entered into, by the liquidator in pursuance of this section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has not voted in favour of the special resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such special resolution in writing addressed to the liquidators or one of them, and left at the registered office of the Company not later than seven days after the date of the meeting at which such special resolution was passed, such dissentient member may, by writing addressed and left as last aforesaid, require the liquidator to do one of the following things as the liquidator may prefer (that is to say):—either to abstain from carrying such resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned; such purchase-money to be paid before the Company is dissolved, and to be raised by the liquidator in such manner as may be determined by special resolution.

No special resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to, or concurrently with, any resolution for winding-up the Company or for appointing liquidators; but, if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such resolution shall not be of any validity unless it is sanctioned by the Court.

205. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

206. When any dispute so directed to be settled by arbitration has arisen, then, unless both parties concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred.

After any such appointment has been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation.

If for the space of fourteen days after any such dispute has arisen, and after a request in writing has been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters in dispute; and in such case the award or determination of such single arbitrator shall be final.

207. If, before the matters so referred are determined, any arbitrator appointed by either party die, or become incapable or refuse, or for seven days neglect, to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal or disability as aforesaid.

208. Where more arbitrators than one have been appointed, they shall, before entering upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ.

If such umpire die, or refuse, or for seven days neglect, to act, they shall forthwith, after such death, refusal or neglect, appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

209. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath.

210. The costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpire, as the case may be.

211. On the application of either of the parties, the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

212. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress or execution put in force, without the leave of the Court, against the estate or effects of the Company after the commencement of the winding-up shall be void.

Nothing in this section applies to proceedings by the Government.

213. Every conveyance, mortgage, delivery of goods, payment, execution or other act relating to property, which would, if made or done by or against any individual trader, be deemed, in the event of his insolvency, to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly.

For the purposes of this section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees, for the benefit of all its creditors, shall be void.

214. Where, in the course of the winding-up of any Company under this Act, it appears that any past or present director, manager, official or other liquidator, or any officer of such Company, has misapplied or retained in his own hands, or become liable or accountable for, any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any liquidator or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager or other officer, and compel him to repay any monies so misapplied or retained, or for which such officer has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misap-

plication, retainer, misfeasance or breach of trust, as the Court thinks just.

Explanation I.—The banker of a Company is not, as such, an officer within the meaning of this section.

Explanation II.—Proceedings cannot be taken under this section against the representatives of a deceased officer.

215. If any director, officer or contributory of any Company wound up under this Act destroys, mutilates, alters, falsifies or fraudulently secretes any books, papers, writings or securities, or makes, or is privy to the making of, any false or fraudulent entry in any register, book of account or other document belonging to the Company, with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

216. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present director, manager, officer or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up or of its own motion, direct the official liquidators or the liquidators (as the case may be) to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

217. If any person, upon any examination upon oath authorized under this Act, or in any affidavit, deposition or solemn affirmation, in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years and shall also be liable to fine.

218. Where the High Court makes an order for winding-up a Company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court; and thereupon such District Court shall, for the purpose of winding-up the Company, be deemed to be "the Court" within the meaning of this Act, and shall have, for the purposes of such winding-up, all the jurisdiction and powers of the High Court.

219. If during the progress of a winding-up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court, the High Court may transfer the same to

such other Court, and thereupon the winding-up shall proceed in such other District Court.

PART V.

REGISTRATION-OFFICE.

220. The registration of Companies under this Act shall be conducted as follows (that is to say) :—

(a) The Local Government may, after the sanction of the Governor General in Council to the creation of any such offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure :

(b) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, clerks and servants as aforesaid :

(c) The Local Government may from time to time determine the places at which offices for the registration of Companies are to be established, so that there be at all times maintained in each of the towns of Calcutta, Madras and Bombay at least one such office, and that no Company shall be registered except at an office within that part of British India in which, by the memorandum of association, the registered office of the Company is declared to be established :

(d) The Local Government may from time to time direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of Companies :

(e) Every person may inspect the documents kept by the Registrar of joint stock Companies. There shall be paid for such inspection such fees as may be directed by the Local Government, not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may direct, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract :

(f) The existing Registrar, Assistant Registrars, clerks and other officers and servants in the office for the registration of joint stock Companies shall, during the pleasure of the Local Government, hold the offices and receive the salaries hitherto held and received by them, but they shall in the execution of their duties conform to any regulations that may be issued by the Local Government :

(g) There shall be paid to any Registrar, Assistant Registrar, clerk or servant that may hereafter be employed in the registration of joint stock Companies such salary as the Local Government

may, with the sanction of the Governor General in Council, direct :

(k) Whenever any act is herein directed to be done to or by the Registrar of joint stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of joint stock Companies, or in his absence to or by such person as the Local Government may for the time being authorize. But, in the event of the Local Government altering the constitution of the existing registry-office, such act shall be done to or by such officer or officers, and at such place or places with reference to the local situation of the registered offices of the Companies to be registered, as the Local Government may appoint.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES ACTS.

221. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860, or either of them, in the same manner, in the case of a limited Company, as if such Company had been formed and registered under this Act as a Company limited by shares, and, in the case of a Company other than a limited Company, as if such Company had been formed and registered as an unlimited Company under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by special resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the table marked B annexed to Act No. XIX of 1857, and shall also, in the case of an unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that such regulations are contained in the memorandum of association.

222. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

223. Any Company registered under the said Acts or either of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

224. With the exceptions made in the next following section and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament or Act of the Governor General in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

225. The following regulations shall be observed with respect to the registration of existing Companies under this Part of this Act (that is to say) :—

(a) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, and not being a joint stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof :

(b) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an unlimited Company, or as a Company limited by guarantee :

(c) No life-assurance Company existing at the time of the commencement of this Act, and no Company that is not a joint stock Company as hereinafter defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by shares :

(d) No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present personally, or by proxy in cases where proxies are allowed by the regulations of the Company, at some general meeting summoned for the purpose :

(e) Where a Company, not having the liability of its members limited by Act of Parliament, or Act of the Governor General in Council, or by

Letters Patent, is about to register as a limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned general meeting:

(✓) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

In computing any majority under this section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

226. For the purposes of this Part of this Act, Definition of "joint so far as the same relates to stock Company." the description of Companies empowered to register as Companies limited by shares, a joint stock Company shall be deemed to be a Company having a permanent paid up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons; and such Company, when registered with limited liability under this Act, shall be deemed to be a Company limited by shares.

227. Previously to the registration, in pursuance of this Part of this Act, of any joint stock Company, there shall be delivered to the Registrar the following documents (that is to say):—

(a) A list showing the names, addresses and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number;

(b) A copy of any Act of Parliament or Act of the Governor General in Council, Royal Charter, Letters Patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the Company;

(c) If any such joint stock Company is intended to be registered as a limited Company, the above list and copy shall be accompanied by a statement

specifying the following particulars (that is to say):—

the nominal capital of the Company and the number of shares into which it is divided;

the number of shares taken and the amount paid on each share;

the name of the Company, with the addition of the word "limited" as the last word thereof;

with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

228. Previously to the registration in pursuance of this Part of this Act of any Company not being a joint stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the directors or other managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor General in Council, Letters Patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the Company, with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

229. Where a joint stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement, not more than six clear days before the day of registration.

230. The lists of members and directors and Authentication of any other particulars relating to the Company hereby required to be delivered to the Registrar shall be verified by declaration of the directors of the Company delivering the same, or any two of them, or of any two other principal officers of the Company, made before a Justice of the Peace or a District Judge.

231. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a joint stock Company as hereinafter defined.

232. Every banking Company existing at the date of the passing of this Act which registers itself as a limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and

partnership firm having a banking account with the Company.

Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company.

In case the Company omits to give any such notice as is hereinbefore required to be given, then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

233. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of any Company in cases where such Company is not registered as a limited Company, or where, previously to its being registered as a limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor General in Council, or by Letters Patent.

234. Any Company authorized by this Part of this Act to change its name, shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "limited."

235. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the tables marked B and C in the first schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company, that it is limited; and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

236. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a limited or unlimited Company, as the case may be; and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

237. All such property, moveable and immovable, including all interests and rights in, to and out of

property, moveable and immovable, and including obligations and actionable claims, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

238. The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of, such Company previously to such registration.

239. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid; but, in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding-up the Company.

240. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company, including, in the case of a Company registered as a Company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and articles of association; and all the provisions of this Act shall apply to such Company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following (that is to say):—

(a) That table A in the first schedule to this Act shall not, unless adopted by special resolution, apply to any Company registered under this Act in pursuance of this Part thereof:

(b) That the provisions of this Act relating to the numbering of shares shall not apply to any joint stock Company whose shares are not numbered:

(c) That no Company shall have power to alter any provisions contained in any Act of Parliament, Act of the Legislative Council or Act of the Governor General in Council relating to the Company:

(d) That no Company shall have power, without the sanction of the Governor General in Council, to alter any provision contained in any Letters Patent relating to the Company :

(e) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, the provisions hereinbefore contained with respect to the representatives, heirs and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply :

(f) Nothing herein contained shall authorize any Company to alter any such provisions contained in any deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act :

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company.

241. The Court may, at any time after the presentation of a petition for winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

242. Where an order has been made for winding-up a Company registered in pursuance of this Part of this Act, in addition to the provisions hereinbefore contained, it is hereby further provided that no suit or other legal proceeding shall be commenced or proceeded with

against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

243. Subject as hereinafter mentioned, any Partnership, Association or Company, except Railway Companies incorporated by

Winding-up unregistered Companies.

Act of Parliament or Act of the Governor General in Council, consisting of more than seven members and not registered under this Act, and hereinafter included under the term "unregistered Company," may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions :—

(1) An unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate, or, if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered office of the Company :

(2) No unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court :

(3) The circumstances under which an unregistered Company may be wound up are as follows (that is to say) :—

(a) whenever the Company is dissolved or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs ;

(b) whenever the Company is unable to pay its debts ;

(c) whenever the Court is of opinion that it is just and equitable that the Company should be wound up :

(4) An unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the secretary or some director or

principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor ;

(b) whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the secretary or some director, manager or principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not, within ten days after service of such notice, paid, secured or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same ;

(c) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied ;

(d) whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

244. In the event of an unregistered Company

Who to be deemed a contributory in the event of Company being wound up. being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company.

Every such contributory shall be liable to contribute to the assets of the Company in the course of the winding-up all sums due from him in respect of any such liability as aforesaid.

In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

245. The Court may, at any time after the Power of Court to making of an application for restrain further proceedings. winding-up an unregistered Company, and before making an order for winding-up the Company, upon the

application of any creditor of the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

246. Where an order has been made for winding-up an unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

247. If any unregistered Company has no Provision in case of power to sue and be sued in unregistered Company. a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding-up such Company or by any subsequent order, direct that all such property, moveable and immoveable, including all interests, claims and rights into and out of property, moveable and immoveable, and including actionable claims, as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company, or any part of such property, is to vest in the official liquidator or official liquidators by his or their official name or names ; and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the official liquidator or official liquidators may, in his or their official name or names, or in such name or names, and after giving such indemnity, as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding-up the Company and recovering the property thereof.

248. The provisions made by this Part of this Act with respect to unregistered Companies shall be deemed to be made in addition to, and not in restriction of, any provisions hereinbefore contained with respect to winding-up Companies by the Court.

The Court or official liquidator may, in addition to anything contained in this Part of this Act, exercise any powers or do any act in the case of unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act ; but an unregistered Company shall not, except in the event of its being wound-up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

PART IX.

MISCELLANEOUS PROVISIONS.

249. No Company under this Act shall have power to buy its own shares.

250. Where, previously to the commencement of this Act, an order has been made for winding-up a Company under the Indian Companies Act, 1866, or a resolution has been passed for winding-up a Company voluntarily, such Company shall be wound-up in the same manner and with the same incidents as if this Act were not passed; and, for the purposes of such winding-up, the Indian Companies Act, 1866, shall be deemed to remain in full force.

251. Where, previously to the commencement of this Act, any conveyance, mortgage-deed or other instrument has been made in pursuance of the Indian Companies Act, 1866, such instrument shall be of the same force as if this Act had not passed; and, for the purposes of such instrument, the Indian Companies Act, 1866, shall be deemed to remain in full force.

252. All offences under this Act may be tried by any Magistrate of the first class, unless the period of imprisonment to which the offender is liable exceeds that which such officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such officer, the offender shall be committed for trial before the Court of Session.

If any offence which by this Act is declared to be punishable by any penalty is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

253. Subject to the provisions hereinbefore contained, the Court may, in any proceedings under this Act, make such order as to costs as it thinks fit.

254. The High Court may from time to time make rules, consistent with this Act and with the Code of Civil Procedure, concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the subdivision of the shares of a Company.

255. In sections 1 and 18 of Act No. XXI of 1860 (for the registration of Literary, Scientific and Charitable Societies), the words "Registrar of Joint Stock Companies" shall be construed to mean Registrar of joint stock Companies under this Act or any Act for the time being in force.

256. Save as provided in sections one hundred and fifty-two and one hundred and fifty-three, nothing in this Act shall be deemed

to apply to the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in general meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in general meeting may prescribe.

Calls on Shares.

(4.) The directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5.) A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The directors may, if they think fit, receive, from any member willing to advance the same, all or any part of the monies due upon the shares held by him beyond the sums actually called for; and, upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register-book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, A B, of
sum of rupees , in consideration of the
paid to me by C D

of _____, do hereby transfer to the said *C D* the share (or shares) numbered _____ standing in my name in the books of the Company, to hold unto the said *C D*, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said *C D*, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands, the _____ day of _____

(10.) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call together with interest and any expenses that may have accrued by reason of such non-payment.

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place

appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

(20.) Any share so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company in general meeting thinks fit.

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made and that the forfeiture of the share was made by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The directors may, with the sanction of the Company previously given in general meeting, convert any paid up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interest, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The directors may, with the sanction of a special resolution of the Company previously given in general meeting, increase its capital by the issue of new shares; such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in general meeting directs, or, if no direction is given, as the directors think expedient.

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions, with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29.) The first general meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place, as the directors may determine.

(30.) Subsequent general meetings shall be held, once at the least in every year, at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(31.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(32.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an extraordinary general meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(34.) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other members amounting to the

required number, may themselves convene an extraordinary general meeting.

Proceedings at General Meetings.

(35.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(37.) No business shall be transacted at any general meeting, except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows, that is to say:—if the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38.) If, within one hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week, at the same time and place; and if, at such adjourned meeting, a quorum is not present, it shall be adjourned *sine die*.

(39.) The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the Company.

(40.) If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be chairman.

(41.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(43.) If a poll is demanded by five or more

members, it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the Company in general meeting. In the case of an equality of votes at any general meeting, the chairman shall be entitled to a second or casting vote.

Votes of Members.

(44.) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or, if such appointor is a corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50.) The instrument appointing a proxy shall be deposited at the registered office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form:—

I, _____, of _____, Company, Limited.
being a member of the _____, of _____, Company, Limited, and entitled to _____ vote or _____ votes, hereby appoint _____ of _____, as my proxy, to vote for me and on my behalf at the (ordinary or extraordinary, as the case may be) general meeting of the Company to be held on the _____ day of _____, and at any adjournment thereof (or at any meet-

ing of the Company that may be held in the year _____). As witness my hand, this _____ day of _____

Signed by the said _____ in the presence of _____

Directors.

(52.) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

(53.) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

(54.) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the Company in general meeting.

Powers of Directors.

(55.) The business of the Company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these articles, required to be exercised by the Company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56.) The continuing directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57.) The office of director shall be vacated—
if he, or any partner of his, or the firm of which he is a member, holds any other office or place of profit under the Company;

if he becomes bankrupt or insolvent;

if he is punished under any of the penal provisions of the foregoing Act;

if he is concerned in or participates in the profits of any contract with the Company.

But the above rules shall be subject to the following exceptions:—that no director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is director; nevertheless, he shall not vote in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

Rotation of Directors.

(58.) At the first ordinary meeting after the registration of the Company, the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year, one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59.) The one-third or other nearest number to

retire during the first and second years ensuing the first ordinary meeting of the Company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60.) A retiring director shall be re-eligible.

(61.) The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If, at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63.) The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64.) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65.) The Company in general meeting may, by a special resolution, remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66.) The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes.* In case of an equality of votes, the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

(67.) The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

(68.) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall, in the exercise of the

powers so delegated, conform to any regulations that may be imposed on it by the directors.

(69.) A committee may elect a chairman of its meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

(70.) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and, in case of an equality of votes, the chairman shall have a second or casting vote.

(71.) All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends.

(72.) The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

(74.) The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the Company.

(77.) No dividend shall bear interest as against the Company.

Accounts.

(78.) The directors shall cause true accounts to be kept—

of the stock in trade of the Company;

of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

of the credits and liabilities of the Company.

The books of account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance-sheet shall be made out in every year and laid before the Company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82.) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit.

(83.) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84.) The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the Company in general meeting.

(85.) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86.) The auditors may be members of the Company; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company; and no director or other officer of the Company is eligible during his continuance in office.

(87.) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88.) The remuneration of the first auditors shall be fixed by the directors; that of subsequent

auditors shall be fixed by the Company in general meeting.

(89.) Any auditor shall be re-eligible on his quitting office.

(90.) If any casual vacancy occurs in the office of any auditor appointed by the Company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91.) If no election of auditors is made in manner aforesaid, the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

(92.) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the Company.

(94.) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

(95.) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

TABLE C.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company not having a capital divided into shares:—

	Rs.	A.	P.
For registration of a Company whose number of members, as stated in the articles of association, does not exceed 20	40	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100	100	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, or less number than 50 members, after the first 100.			
For registration of a Company in which the number of members is stated in the articles of association to be unlimited, a fee of	400	0	0
For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase	5	0	0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

* The Capital of the Company is Rs. ,
divided into shares of each.
The number of shares issued is . Calls to

* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

the amount of Rs. per share have been made, under which the sum of Rs. has been received.

The liabilities of the Company on the first day of January (or July) were:—

Debts owing to sundry persons by the Company

Under decree, Rs.

On mortgages or bonds, Rs.

On notes, bills or hundis, Rs.

On other contracts, Rs.

On estimated liabilities, Rs.

The assets of the Company on that day were:—

Government securities [stating them], Rs.

Bills of exchange, hundis and promissory notes, Rs.

Cash at the bankers, Rs.

Other securities, Rs.

SECOND SCHEDULE.

(SEE SECTION 95.)

FORM A.

Memorandum of association of a Company limited by shares.

1st.—The name of the Company is "The Company, Limited."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are " and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—The liability of the members is limited.

5th.—The capital of the Company is Rs. divided into shares of Rs. each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:—

Names, addresses and description of subscribers.	Number of shares taken by each subscriber.
1. A. B. of ...	
2. C. D. " ...	
3. E. F. " ...	
4. G. H. " ...	
5. I. J. " ...	
6. K. L. " ...	
7. M. N. " ...	
Total shares taken ...	

Dated the day of
Witness to the above signatures.
O. P. of

FORM B.

Memorandum and articles of association of a Company limited by guarantee, and not having a capital divided into shares.

Memorandum of Association.

- 1st.—The name of the Company is, "The Mutual Calcutta Marine Association, Limited."
- 2nd.—The registered office of the Company will be situate in Calcutta.
- 3rd.—The objects for which the Company is established are "the mutual insurance of ships belonging to members of the Company, and the doing all such other things as are incidental or conducive to the attainment of the above objects."
- 4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

- | | | | |
|----|----|----|----|
| 1. | A. | B. | of |
| 2. | C. | D. | " |
| 3. | E. | F. | " |
| 4. | G. | H. | " |
| 5. | I. | J. | " |
| 6. | K. | L. | " |
| 7. | M. | N. | " |

Dated the day of
 Witness to the above signatures.
 O. P. of

Articles of Association to accompany preceding Memorandum of Association.

(1.) The Company, for the purpose of registration, is declared to consist of five hundred members.

(2.) The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4.) The first general meeting shall be held at such time, not being more than three months after

the incorporation of the Company, and at such place, as the directors may determine.

(5.) Subsequent general meetings shall be held at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year at such place as may be determined by the directors.

(6.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(7.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by any five or more members, convene an extraordinary general meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called; and shall be left at the registered office of the Company.

(9.) Upon the receipt of such requisition, the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

(10.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and, in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(11.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows, that is to say:—if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty; with this limitation, that no quorum shall in any case exceed thirty.

(13.) If, within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting, if convened upon the requisition of the members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the following week, at the same time and place; and, if at such adjourned meeting a quorum

of members is not present, it shall be adjourned *sine die*.

(14.) The chairman (if any) of the directors shall preside as chairman at every general meeting of the Company.

(15.) If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of such meeting.

(16.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs; and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator: if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form:—

Company, Limited.

I, _____, of _____, being a member of the Company, Limited, hereby appoint _____, of _____, as my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, *as the case may be*] general meeting of the Company to be held on the day of _____, and at any adjournment thereof

[or at any meeting of the Company that may be held in the year _____].

As witness my hand, this _____ day of _____ Signed by the said _____ in the presence of _____

Directors.

(25.) The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(26.) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

Election of Directors.

(28.) The directors shall be elected annually by the Company in general meeting.

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted.)

Accounts.

(29.) The accounts of the Company shall be audited by a committee of five members, to be called the audit-committee.

(30.) The first audit-committee shall be nominated by the directors out of the body of members.

(31.) Subsequent audit-committees shall be nominated by the members at the ordinary general meeting in each year.

(32.) The audit-committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The audit-committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company.

They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may, in relation to such accounts, examine the directors or any other officer of the Company.

(34.) The audit-committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for ex-

planations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory; and such report shall be read together with the report of the directors at the ordinary meeting.

Notices.

(35.) A notice may be served by the Company upon any member, either personally, or by sending it through the post in a letter addressed to such member at his registered place of abode.

(36.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an extraordinary resolution, as defined by The Indian Companies Act, 1882, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses and Descriptions of Subscribers.

- | | | |
|-------------|-----|-----------|
| 1. A. B. of | ... | Merchant. |
| 2. C. D. of | ... | " |
| 3. E. F. of | ... | " |
| 4. G. H. of | ... | " |
| 5. I. J. of | ... | " |
| 6. K. L. of | ... | " |
| 7. M. N. of | ... | " |

Dated the day of 18 .

Witness to the above signatures.

O. P. of

FORM C.

Memorandum and articles of association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Hotel Company, Limited."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

1. The capital of the Company shall consist of five lakhs of rupees divided into five thousand shares of one hundred rupees each.

2. The directors may, with the sanction of the Company in general meeting, reduce the amount of shares.

3. The directors may, with the sanction of the Company in general meeting, cancel any shares belonging to the Company.

4. All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, addresses and descriptions of subscribers.	Number of shares taken by each subscriber.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	

Total shares taken

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Memorandum and articles of association of an unlimited Company having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Patent Company."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the working of a patent method of , of which method O. P. of is the sole patentee."

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1882, and is hereby promulgated for general information:—

ACT No. VII OF 1882.

An Act to amend the law relating to Powers-of-Attorney.

FOR the purpose of amending the law relating to Powers-of-Attorney; it is hereby enacted as follows:—

Short title.	1. This Act may be called "The Powers-of-Attorney Act, 1882":
Local extent.	It applies to the whole of British India; and it shall come into force on the first day of May, 1882.
Commencement.	

2. The donee of a power-of-attorney may, if he thinks fit, execute or do any assurance, instrument or thing in and with his own name and signature, and his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument and thing so executed and done, shall be as effectual in law as if it had been executed or done by the donee of the power in the name, and with the signature and seal, of the donor thereof.

This section applies to powers-of-attorney created by instruments executed either before or after this Act comes into force.

3. Any person making or doing any payment or act in good faith, in pursuance of a power-of-attorney, shall not be liable in respect of the payment or act by reason that, before the payment or act, the donor of the power had died or become lunatic, of unsound mind, or bankrupt or insolvent, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, insolvency or revocation was not, at the time of the payment or act, known to the person making or doing the same.

But this section shall not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had

against the payer, if the payment had not been made by him.

This section applies only to payments and acts made or done after this Act comes into force.

4. (a) An instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the High Court within the local limits of whose jurisdiction the instrument may be.

(b) A separate file of instruments so deposited shall be kept; and any person may search that file, and inspect every instrument so deposited; and a certified copy thereof shall be delivered out to him on request.

(c) A copy of an instrument so deposited may be presented at the office and may be stamped or marked as a certified copy, and, when so stamped or marked, shall become and be a certified copy.

(d) A certified copy of an instrument so deposited shall, without further proof, be sufficient evidence of the contents of the instrument and of the deposit thereof in the High Court.

(e) The High Court may, from time to time, make rules for the purposes of this section, and prescribing, with the concurrence of the Local Government, the fees to be taken under clauses (a), (b) and (c).

(f) Throughout British Burma, the Court of the Recorder of Rangoon shall, for the purposes of this section, be deemed to be the High Court.

(g) This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

5. A married woman, whether a minor or not, shall, by virtue of this Act, have power, as if she were unmarried and of full age, by a non-testamentary instrument, to appoint an attorney on her behalf, for the purpose of executing any non-testamentary instrument or doing any other act which she might herself execute or do; and the provisions of this Act, relating to instruments creating powers-of-attorney, shall apply thereto.

This section applies only to instruments executed after this Act comes into force.

6. The Trustees and Mortgagees Powers Act, Act XXVIII of 1866, 1866, section 39, is hereby repealed.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March, 1882, and is hereby promulgated for general information:—

ACT NO. VIII OF 1882.

An Act to amend the Indian Penal Code.

For the purpose of amending the Indian Penal Code; It is hereby enacted as follows:—

Preamble.

1. In the second clause of section 40 of the said Code, before the figure "109," the figures "64, 65, 66, 71," shall be inserted.

Amendment of section 40, clause 2, of Indian Penal Code.

2. In section 64 of the said Code, for the first twelve words, the following shall be substituted, namely:—

Amendment of section 64 of same Code.

"In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

"and in every case of an offence punishable with fine only, in which the offender is sentenced to a fine."

3. In section 67, after the words "fine only," the words "the imprisonment which the Court imposes in default of payment of the fine shall be simple, and" shall be inserted.

Amendment of section 67 of same Code.

4. To section 71 of the said Code, the following clause shall be added:—

Addition to section 71 of same Code.

"Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

"where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

"the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences."

5. In section 73 of the said Code, for the words "be less than a" the words "shall not exceed one" shall be substituted.

Amendment of section 73 of same Code.

New Exception to section 214 of same Code.

6. In section 214 of the said Code, for the Exception, the following shall be substituted, namely:—

"Exception.—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded."

7. In section 309 of the said Code, for the last seven words the words "or with fine or with both" shall be substituted.

Amendment of section 309 of same Code.

8. In section 335 of the said Code, before the word "causes" the word "voluntarily" shall be inserted.

Amendment of section 335 of same Code.

9. In section 410 of the said Code, after the words "designated as 'stolen property'" the following words shall be inserted, namely:—"whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without British India"; and the words "offence of" shall be omitted.

Amendment of section 410 of same Code.

10. In section 435 of the said Code, after the words "or upwards" the following words shall be inserted, namely:—

Addition to section 435 of same Code.

"or (where the property is agricultural produce) ten rupees or upwards."

11. This Act extends to the whole of British India; and, shall come into force on the first day of January, 1883.

Local extent.
Commencement.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March, 1882, and is hereby promulgated for general information :—

ACT No. IX OF 1882.

An Act to amend the Prisoners' Act, 1871.

WHEREAS it is expedient to amend Act No. V of 1871 (*to consolidate the laws relating to Prisoners confined by order of a Court*) ; It is hereby enacted as follows :—

1. This Act may be called " The Prisoners' Act Amendment Act, 1882 " :
Short title. it extends to the whole of
Local extent, British India ;
Commencement, and it shall come into force on the first day of January, 1883.

Section substituted for section 33, Act V of 1871.

2. For section thirty-three of the said Act the following shall be substituted (namely) :—

" 33. The Governor General in Council may, from time to time, appoint places within British India to which persons sentenced to transportation shall be sent : and the Local Government, or some officer duly authorized in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence."

Governor General in Council to appoint places to which persons sentenced to transportation shall be sent.

Local Government to direct removal of such persons to places appointed.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th March, 1882, and is hereby promulgated for general information:—

ACT No. X OF 1882.

THE CODE OF CRIMINAL PROCEDURE, 1882.

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An Act to consolidate and amend the law relating to Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:—

PART I. PRELIMINARY.

CHAPTER I.

1. This Act may be called "The Code of Criminal Procedure, 1882": and shall come into force on the first day of January, 1883;

It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law now in force, or shall apply to—

(a) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;

(b) any officer duly authorized to try petty offences in military bázars at cantonments and stations occupied by the troops of the Presidencies of Fort St. George and Bombay respectively;

(c) heads of villages in the Presidency of Fort Saint George; or

(d) village Police-officers in the Presidency of Bombay;

(e) and nothing in sections 174, 175 and 176 shall apply to the police in the town of Madras.

2. On and from the first day of January, 1883, the enactments mentioned in the first schedule shall be repealed to the extent specified in the third column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and orders, rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment, and which are in force immediately before the first day of January, 1883, shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code.

3. In every enactment passed before this Code comes into force, in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act No. XXV of 1861, or Act No. X of 1872, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate", "Subordinate Magistrate, first class", and "Subordinate Magistrate, second class", shall respectively be deemed to mean "Magistrate of the first class", "Magistrate of the second class", and "Magistrate of the third class"; the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-divisional Magistrate", the expression "Magistrate of the district" shall be deemed to mean "District Magistrate", and the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate."

4. In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:—

(a) "Complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence; but does not include the report of a Police-officer:

(b) "Investigation" includes all the proceedings under this Code for the collection of evidence conducted by the police or by any person (other than a Magistrate or Police-officer) who is authorized by a Magistrate in this behalf:

(c) "Inquiry" includes every inquiry conducted under this Code by a Magistrate or Court:

(d) "Judicial proceeding" means any proceeding in the course of which evidence is or may be legally taken:

(e) "Writing" and "written" include "printing", "lithography", "photography", "engraving", and every other mode in which words or figures can be expressed on paper or on any substance:

(f) "Sub-division" means a sub-division made under this Code of a District:

(g) "Province" means the territories for the time being under the administration of any Local Government:

(h) "Presidency-town" means the local limits for the time being of the ordinary original civil juris-

diction of the High Court of Judicature at Fort William, Madras or Bombay :

(i) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Panjáb and the Recorder of Rangoon :

In other cases "High Court" means the highest Court of criminal appeal or revision for any local area ;

or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf :

(j) "Chief Justice" includes also the senior "Chief Justice" : Judge of a Chief Court :

(k) "Advocate General" includes also a Government Advocate, or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf :

(l) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown :

(m) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor ; and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction :

(n) "Pleader" used with reference to any proceeding in any Court, means a pleader authorized under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakíl and an attorney of a High Court so authorized, and (2) any mukhtár or other person appointed with the permission of the Court to act in such proceeding :

(o) "Police-station" means any post declared, generally or specially, by the Local Government to be a Police-station for the purposes of this Code, and includes any local area specified by the Local Government in this behalf ; and "Officer in charge of a Police-station" includes, when the officer in charge of the Police-station is absent therefrom or unable from illness to perform his duties, the Police-officer present at the Police-station who is next in rank to such officer and is above the rank of constable, or, when the Local Government so directs, any other Police-officer so present :

(p) "Offence" means any act or omission made punishable by any law for the time being in force :

(q) "Cognizable offence" means an offence for, and "cognizable case" means a case in, which a Police-officer, within or without the Presidency-towns, may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant :

"Non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a Police-officer, within or without the Presidency-towns, may not arrest without warrant :

(r) "Bailable offence" means an offence shewn as bailable in the second schedule, or which is made bailable by any other law for the time being in force ; and "non-bailable offence" means any other offence :

(s) "Warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months :

(t) "Summons-case" means a case relating to an offence not so punishable :

(u) "European British subject" means—

(1) any subject of Her Majesty born, naturalized or domiciled in the United Kingdom of Great Britain and Ireland, or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand, or in the Colony of the Cape of Good Hope or Natal ;

(2) any child or grand-child of any such person by legitimate descent :

(v) "Chapter" means a chapter of this Code ; and "Schedule" means a schedule hereto annexed :

(w) "Place" includes also a house, building, tent and vessel.

Words referring to acts. Words which refer to acts done extend also to illegal omissions ; and

all words and expressions used herein and defined in the Indian Penal Code, and meaning as in Penal Code, shall be deemed to have the meanings respectively attributed to them by that Code.

5. All offences under the Indian Penal Code shall be inquired into and tried according to the provisions hereinafter contained ; and all offences under any other law shall be inquired into and tried according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of inquiring into or trying such offences.

PART II. CONSTITUTION AND POWERS OF CRI- MINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely :—

- I.—Courts of Session :
- II.—Courts of Presidency Magistrates :
- III.—Courts of Magistrates of the first class :
- IV.—Courts of Magistrates of the second class :
- V.—Courts of Magistrates of the third class.

B.—Territorial Divisions.

7. Every Province (excluding the Presidency-towns) shall be a Sessions Division, or shall consist of Sessions Divisions ; and every Sessions Division shall, for the purposes of this Code, be a District or consist of Districts.

The Local Government may alter the limits, or, with the previous sanction of the Governor General in Council, the number, of such Divisions and Districts.

The Sessions Divisions and Districts existing when this Code comes into force shall be Sessions Divisions and Districts respectively, unless and until they are so altered.

Every Presidency-town shall, for the purposes of this Code, be deemed to be a District.

8. The Local Government may divide any District outside the Presidency-towns into Sub-divisions, or make any portion of any such District a Sub-division, and may alter the limits of any Sub-division.

All existing Sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the Presidency-towns.

9. The Local Government shall establish a Court of Session for every Sessions Division, and appoint a Judge of such Court.

It may also appoint Additional Sessions Judges, Joint Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

10. In every District outside the Presidency-towns, the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer temporarily succeeding to vacancies in office of District Magistrate, succeeds temporarily to the chief executive administration of the District, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

12. The Local Government may appoint as Subordinate Magistrates many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any District outside the Presidency-towns ; and the Local Government, or the District Magistrate subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such District.

13. The Local Government may place any Magistrate of the first or second class in charge of a Sub-division, and relieve him of the charge as occasion requires.

Such Magistrates shall be called Sub-divisional Magistrates.

The Local Government may delegate its powers under this section to the District Magistrate.

14. The Local Government may confer upon any person all or any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the Presidency-towns.

Such Magistrates shall be called Special Magistrates.

With the previous sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by the first paragraph of this section.

No powers shall be conferred under this section on any Police-officer below the grade of Assistant District Superintendent, and no powers shall be so conferred except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

15. The Local Government may direct any two or more Magistrates in any place outside the Presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit.

Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members who is present taking part in the proceedings as a member of the Bench belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

16. The Local Government may, or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any District respecting the following subjects:—

- (a) the classes of cases to be tried;
- (b) the times and places of sitting;
- (c) the constitution of the Bench for conducting trials;
- (d) the mode of settling differences of opinion which may arise between the Magistrates in session.

17. All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Magistrates and Benches; and

every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a Sub-division shall be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may,

from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

18. The Local Government shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the Presidency-towns, and shall appoint one of such persons to be Chief Magistrate for each such town.

Any two or more of such persons may (subject to the rules made by the Chief Magistrate under the power hereinafter conferred) sit together as a Bench.

19. Every Presidency Magistrate shall exercise jurisdiction in all places within the Presidency-town for which he is appointed and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

20. Every Presidency Magistrate in the town of Bombay shall exercise all jurisdiction which, under any law in force immediately before the first day of April, 1877, was exercised in that town by the Court of Petty Sessions:

Provided that appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

21. Every Chief Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

- (a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;
- (b) the times and places at which Benches of Magistrates shall sit;
- (c) the constitution of such Benches; and
- (d) the mode of settling differences of opinion which may arise between Magistrates in session.

E.—Justices of the Peace.

22. The Governor General in Council, so far as regards the whole or any part of British India outside the Presidency-towns,

Justices of the Peace for the Mufassal.

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely :—

- I.—Courts of Session :
- II.—Courts of Presidency Magistrates :
- III.—Courts of Magistrates of the first class :
- IV.—Courts of Magistrates of the second class :
- V.—Courts of Magistrates of the third class.

B.—Territorial Divisions.

7. Every Province (excluding the Presidency-towns) shall be a Sessions Division, or shall consist of Sessions Divisions ;

and every Sessions Division shall, for the purposes of this Code, be a District or consist of Districts.

The Local Government may alter the limits, or, with the previous sanction of the Governor General in Council, the number, of such Divisions and Districts.

The Sessions Divisions and Districts existing when this Code comes into force shall be Sessions Divisions and Districts respectively, unless and until they are so altered.

Every Presidency-town shall, for the purposes of this Code, be deemed to be a District.

8. The Local Government may divide any District outside the Presidency-towns into Sub-divisions, or make any portion of any such District a Sub-division, and may alter the limits of any Sub-division.

All existing Sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the Presidency-towns.

9. The Local Government shall establish a Court of Session for every Sessions Division, and appoint a Judge of such Court.

It may also appoint Additional Sessions Judges, Joint Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

10. In every District outside the Presidency-towns, the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer temporarily succeeds to the chief executive administration of the District, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

12. The Local Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any District outside the Presidency-towns ; and the Local Government, or the District Magistrate subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such District.

13. The Local Government may place any Magistrate of the first or second class in charge of a Sub-division, and relieve him of the charge as occasion requires.

Such Magistrates shall be called Sub-divisional Magistrates.

The Local Government may delegate its powers under this section to the District Magistrate.

14. The Local Government may confer upon any person all or any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the Presidency-towns.

Such Magistrates shall be called Special Magistrates.

With the previous sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by the first paragraph of this section.

No powers shall be conferred under this section on any Police-officer below the grade of Assistant District Superintendent, and no powers shall be so conferred except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

15. The Local Government may direct any Bench of Magistrates. two or more Magistrates in any place outside the Presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit.

Except as otherwise provided by any order Powers exercisable by Bench in absence of special direction. under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members who is present taking part in the proceedings as a member of the Bench belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

16. The Local Government may, or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any District respecting the following subjects:—
(a) the classes of cases to be tried;
(b) the times and places of sitting;
(c) the constitution of the Bench for conducting trials;
(d) the mode of settling differences of opinion which may arise between the Magistrates in session.

17. All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Magistrates and Benches; and

every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a Sub-division shall be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may,

from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

18. The Local Government shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the Presidency-towns, and shall appoint one of such persons to be Chief Magistrate for each such town.

Any two or more of such persons may (subject to the rules made by the Chief Magistrate under the power hereinafter conferred) sit together as a Bench.

19. Every Presidency Magistrate shall exercise jurisdiction in all places within the Presidency-town for which he is appointed and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

20. Every Presidency Magistrate in the town of Bombay shall exercise all jurisdiction which, under any law in force immediately before the first day of April, 1877, was exercised in that town by the Court of Petty Sessions:

Provided that appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

21. Every Chief Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

- (a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;
- (b) the times and places at which Benches of Magistrates shall sit;
- (c) the constitution of such Benches; and
- (d) the mode of settling differences of opinion which may arise between Magistrates in session.

E.—Justices of the Peace.

22. The Governor General in Council, so far as regards the whole or any part of British India outside the Presidency-towns,

Justices of the Peace for the Mufassal.

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification

23. The Governor General in Council or the Local Government, so far as regards the town of Calcutta,

and the Local Government, so far as regards the towns of Madras and Bombay,

may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom such Governor General in Council or Local Government (as the case may be) thinks fit.

24. Every person now acting as a Justice of the Peace within, and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 22 by the Governor General in Council to act as a Justice of the Peace for the whole of British India other than the said towns.

Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

25. In virtue of their respective offices, the Governor General, the Ordinary Members of the Council of the Governor General, the Judges of the High Courts and the Recorder of Rangoon are Justices of the Peace within and for the whole of British India, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

F.—Suspension and Removal.

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government:

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor General in Council only shall not be suspended or removed from office by any other authority.

27. The Governor General in Council may suspend or remove from office any Justice of the Peace appointed by him, and the Local Government may suspend or remove from office any Justice of the Peace appointed by it.

CHAPTER III.

POWERS OF COURTS.

A.—Description of Offences cognizable by each Court.

28. Subject to the other provisions of this Code, any offence under the Indian Penal Code may be tried by the High Court or Court of Session or by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

29. Any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

When no Court is so mentioned, it may be tried by the High Court or by any Court constituted under this Code: Provided that—

(a) no Magistrate of the first class shall try any such offence which is punishable with imprisonment for a term which may exceed seven years;

(b) no Magistrate of the second class shall try any such offence which is punishable with imprisonment for a term which may extend to three years; and

(c) no Magistrate of the third class shall try any such offence which is punishable with imprisonment for a term which may extend to one year.

30. In the territories respectively administered by the Lieutenant-Governor of the Panjáb and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg and Assam, and in those parts of the other Provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate with power to try as a Magistrate all offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

31. A High Court may pass any sentence authorized by law.

A Sessions Judge, Additional Sessions Judge or Joint Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding three years passed by an Assistant Sessions Judge shall be subject to confirmation by the Sessions Judge.

32. The Courts of Magistrates may pass the following sentences, namely:—

(a) Courts of Presidency Magistrates and of Magistrates of the first class:

Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law;
Fine not exceeding one thousand rupees;
Whipping.

(b) Courts of Magistrates of the second class:

Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law;
Fine not exceeding two hundred rupees;
Whipping.

(c) Courts of Magistrates of the third class:

Imprisonment for a term not exceeding one month;
Fine not exceeding fifty rupees.

The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

No Court of any Magistrate of the second class shall pass a sentence of whipping unless he is specially empowered in this behalf by the Local Government.

33. The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law in case of such default: Provided that the term is not in excess of the Magistrate's powers under this Code:

Provided also that in no case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

34. The Court of a District Magistrate specially empowered under section 30 may pass any sentence of imprisonment for a term not exceeding seven years, including such solitary confinement as is authorized by law, or of fine, or of whipping, or of any combination of these punishments authorized by law.

But any sentence of imprisonment for a term exceeding three years passed by any such Court shall be subject to the confirmation of the Sessions Judge.

35. When a person is convicted, at one trial, Sentence in cases of conviction of several offences at one trial. of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict: such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct.

It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Maximum term of punishment. Provided as follows:—

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

(b) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

For the purpose of confirmation or appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

C.—Ordinary and Additional Powers.

36. All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers".

37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

D.—Conferment, Continuance and Cancellation of Powers.

39. In conferring powers under this Code, the Local Government may by order empower persons specially by name or in virtue of their office, or classes of officials generally by their official titles.

Aid and information to Magistrates, the police and persons making arrests.

Every such order shall take effect from the date on which it is communicated to the person so empowered.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

41. The Local Government may withdraw any powers conferred under this Code on any person by it or by any officer subordinate to it.

PART III. GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES,
THE POLICE AND PERSONS MAKING ARRESTS.

42. Every person is bound to assist a Magistrate or Police-officer reasonably demanding his aid, whether within or without the Presidency-towns,

(a) in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest;

(b) in the prevention of a breach of the peace, or of any injury attempted to be committed to any railway, canal, telegraph or public property; or

(c) in the suppression of a riot or an affray.

43. When a warrant is directed to a person other than a Police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

44. Every person, whether within or without the Presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under the following sections of the Indian Penal Code (namely) 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or Police-officer of such commission or intention.

45. Every village-headman, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest Police-station, whichever is the nearer, any information which he may obtain respecting—

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, watchman or Police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(b) the resort to any place within, or the passage through, such village, of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(c) the commission of or intention to commit any non-bailable offence in or near such village;

(d) the occurrence therein of any sudden or unnatural death or of any death under suspicious circumstances.

EXPLANATION.—In this section "village" includes village-lands.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. In making an arrest, the Police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such Police-officer or other person may use all means necessary to effect the arrest.

Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death, or with transportation for life.

47. If any person acting under a warrant of arrest, or any Police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such Police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

48. If ingress to such place cannot be obtained under section 47, it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant may issue but cannot be obtained without affording the person to

be arrested an opportunity of escape, for a Police-officer, to enter such place and search therein, and

in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or Police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

49. Any Police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

51. Whenever a person is arrested by a Police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail, but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the Police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing apparel, found upon him.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

When police may arrest without warrant.

54. Any Police-officer may, without an order from a Magistrate and without a warrant, arrest—

first—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned;

secondly—any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of housebreaking;

thirdly—any person who has been proclaimed as an offender either under this Code or by order of the Local Government;

fourthly—any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly—any person who obstructs a Police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; and

sixthly—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy.

This section applies to the police in the towns of Calcutta and Bombay.

55. Any officer in charge of a Police-station may, in like manner, arrest vagabonds, or cause to be arrested—

(a) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(b) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(c) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

56. When any officer in charge of a Police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence for which the arrest is to be made.

57. When any person in the presence of a Police-officer commits or is accused of committing a non-cognizable offence, and refuses on

Refusal to give name and residence.

demand of a Police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless, before the expiration of that time, his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

58. A Police-officer may, for the purpose of Pursuit of offenders arresting without warrant into other jurisdictions. any person whom he is authorized to arrest under this chapter, pursue such person into any place in British India.

59. Any private person may arrest any person Arrest by private person. who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender;

and shall, without unnecessary delay, make over Procedure on such arrest. any person so arrested to a Police-officer; or, in the absence of a Police-officer, take such person to the nearest Police-station.

If there is reason to believe that such person comes under the provisions of section 54, a Police-officer shall re-arrest him.

If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a Police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no reason to believe that he has committed any offence, he shall be at once discharged.

60. A Police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a Police-station.

61. No Police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

62. Officers in charge of Police-stations shall Police to report apprehensions. report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

63. No person who has been arrested by a Police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in British India.

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a Police-officer having authority to arrest.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

68. Every summons issued by a Court under this Code shall be in writing in duplicate signed and sealed. Form of summons. by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct.

Such summons shall be served by a Police-officer; or, subject to such rules consistent with this Code as the Local Government may prescribe in this behalf, by an officer of the Court issuing it. Summons by whom served.

This section applies to the police in the towns of Calcutta and Bombay.

69. The summons shall if practicable be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons. Summons how served.

Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate. Signature of receipt for summons.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of Service when person summoned cannot be found.

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his family, or, in a Presidency-town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

71. If the signature mentioned in sections 69 and 70 cannot by the exercise of due diligence be obtained, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

72. Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court with the endorsement required by that section.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

74. When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

75. Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

76. Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person execute a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

The endorsement shall state (a) the number of sureties, (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (c) the time at which he is to attend before the Court.

Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

77. A warrant of arrest shall ordinarily be directed to one or more Police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no Police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

78. A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued is in, or enters on, his land or farm, or the land under his charge.

When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest Police-officer; who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

79. A warrant directed to any Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

80. The Police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

81. The Police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

82. A warrant of arrest may be executed at any place in British India.

83. When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a Police-officer, forward the same by post or otherwise to any Magistrate or Commissioner of Police within the local limits of whose jurisdiction it is to be executed.

The Magistrate or Commissioner to whom such warrant is so forwarded shall endorse his name thereon, and, if practicable, cause it to be executed within the local limits of his jurisdiction.

84. When a warrant directed to a Police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the Police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

This section applies to the police in the towns of Calcutta and Bombay.

85. When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest, or is nearer than the Magistrate or Commissioner of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner.

86. Such Magistrate or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the

warrant, direct his removal in custody to such Court: Provided that if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

Nothing in this section shall be deemed to prevent a Police-officer from taking security under section 76.

C.—Proclamation and Attachment.

87. If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

The proclamation shall be published as follows:—

(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides, or to some conspicuous place of such town or village; and

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house.

A statement by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

88. The Court may, after issuing a proclamation under section 87, order the attachment of any property, moveable or immovable, or both, belonging to the proclaimed person.

Such order shall authorize the attachment of any property belonging to such person within the district in which it is made; and it shall authorize the attachment of any property belonging to such person without such district, when endorsed by the District Magistrate within whose district such property is situate.

If the property ordered to be attached be debts or other moveable property, the attachment under this section shall be made—

(a) by seizure; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

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- (d) by all or any two of such methods, as the Court thinks fit.
- If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the District in which the land is situate, and in all other cases—
- (e) by taking possession; or
- (f) by the appointment of a receiver; or
- (g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or
- (h) by all or any two of such methods, as the Court thinks fit.

The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure.

If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

89. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government under the last paragraph of section 88 appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other rules regarding processes.

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant for his arrest—

- (a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or
- (b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance

therewith and no reasonable excuse is offered for such failure.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant is present in such Court, such officer may require such person to execute a bond with or without sureties for his appearance in such Court.

92. When any person who is bound by any bond taken under this Code to appear before a Court does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

93. The provisions contained in this chapter relating to a summons and warrant and their issue, service and execution shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

94. Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a Police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he cause such document or thing to be produced instead of attending personally to produce the same.

Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to a letter, post-card, telegram or other document in the custody of the Postal or Telegraph authorities.

95. If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require

Procedure as to letters and telegrams.

the Postal or Telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court directs.

If any such document is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

B.—Search-warrants.

96. Where any Court has reason to believe that

When search-warrant may be issued. a person to whom a summons or order under section 94 or a requisition under section 95, paragraph one, has been or might be addressed will not or would not produce the document or other thing as required by such summons or requisition,

or where such document or other thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed may search or inspect in accordance therewith and the provisions hereinafter contained.

Nothing herein contained shall authorize any Magistrate, other than a District Magistrate or Chief Presidency Magistrate, to grant a warrant to search for a document in the custody of the Postal or Telegraph authorities.

97. The Court may, if it thinks fit, specify in

Power to restrict war- rant. the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

98. If a District Magistrate, Sub-divisional

Search of house sus- pected to contain stolen property, forged docu- ments, &c. Magistrate, Presidency Magistrate or Magistrate of the first class, upon informa- tion and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen prop- erty,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counter- feiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

he may, by his warrant authorize any Police- officer above the rank of a constable—

(a) to enter, with such assistance as may be re- quired, such place, and

(b) to search the same in manner specified in the warrant, and

(c) to take possession of any property, docu- ments, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and

(d) to convey such property, documents, seals, stamps, coins, instruments or materials before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or other- wise to dispose thereof in some place of safety, and

(e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale, or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials, knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said docu- ments, seals, stamps, coins, instruments or materi- als to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

99. When, in the execution of a search-war-

Disposal of things found in search beyond local limits of the jurisdic- tion of the Court which issued the same, any of the things for which search is made are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court.

C.—Discovery of persons wrongfully confined.

100. If any Presidency Magistrate, Magistrate

Search for persons wrongfully confined. of the first class or Sub- divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the per- son so confined; and such search shall be made in accordance therewith, and the person if found shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

D.—General Provisions relating to searches.

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98 or section 100.

102. Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

103. Before making a search under this chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses, but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

E.—Miscellaneous.

104. Any Court may, if it thinks fit, impound any document or other thing produced before it under this Code.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

106. Whenever any person accused of rioting, assault or other breach of the peace, or of abetting the same, or of assembling armed men

or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation by threatening injury to person or property, is convicted of such offence, before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

B.—Security for keeping the Peace in other Cases and Security for Good Behaviour.

107. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information that any person is likely to commit a breach of the peace, or to do any wrongful act that may probably occasion a breach of the peace, within the local limits of such Magistrate's jurisdiction, or that there is within such limits a person who is likely to commit a breach of the peace or do any wrongful act as aforesaid in any place beyond such limits, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

108. When any Magistrate not empowered to proceed under section 107, or a Court of Session or High Court, has reason to believe that any person is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by detaining such person in custody, such Magistrate or Court may issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case under section 107.

A Magistrate before whom a person is sent under this section may in his discretion detain such person in custody until the completion of the inquiry hereinafter prescribed.

109. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—

(a) that any person is taking precautions to conceal his presence within the local limits of such

Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing an offence, or

(b) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding six months as the Magistrate thinks fit to fix.

110. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government receives information that any person within the local limits of his jurisdiction is an habitual robber, housebreaker or thief, or an habitual receiver of stolen property knowing the same to have been stolen, or that he habitually commits extortion, or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the Magistrate thinks fit to fix.

111. The provisions of sections 109 and 110 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

112. When a Magistrate acting under section 107, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

113. If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

114. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him, before the Court:

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the

peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

115. Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

116. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

117. When an order under section 112 has been read or explained under section 113, to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which he has acted, and to take such further evidence as may appear necessary.

Such inquiry shall be made, as nearly as may be practicable, where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials in summons-cases; and where the order requires security for good behaviour, in the manner hereinafter prescribed for conducting trials in warrant-cases, except that no charge need be framed.

For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

118. If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided—

first—that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112:

secondly—that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive:

thirdly—that when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

119. If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in

Security for
keeping
peace and
for good be-
haviour.

respect of whom the inquiry is made should execute a bond, the Magistrate shall make an entry on the record to that effect, and, if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

120. If any person in respect of whom an order requiring security is made under section 106 or section 118 is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

In other cases such period shall commence on the date of such order.

121. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

122. A Magistrate may refuse to accept any surety for good behaviour offered under this chapter, on the ground that, for reasons to be recorded by the Magistrate, such surety is an unfit person.

123. If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison, until such period expires or until within such period he gives the security to the Court or Magistrate which or who made the order requiring it, or to the officer in charge of the jail in which the person so ordered is detained.

When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Court of Session, or, if such Magistrate be a Presidency Magistrate, pending the orders of the High Court; and the proceedings shall be laid, as soon as conveniently may be, before such Court.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit: Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

Imprisonment for failure to give security for Kind of imprisonment. keeping the peace shall be simple.

Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

124. Whenever the District Magistrate or a Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter, whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged.

Whenever the District Magistrate or a Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter as ordered by the Court of Session or High Court may be released without such hazard, such Magistrate shall make an immediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.

125. The District Magistrate may at any time, Power of District Magistrate to cancel any bond for keeping the peace. for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace executed under this chapter by order of any Court in his District not superior to his Court.

126. Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class to cancel any bond executed under this chapter within the local limits of his jurisdiction.

On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

CHAPTER IX.

UNLAWFUL ASSEMBLIES.

127. Any Magistrate or officer in charge of a Police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a Assembly to disperse on command of Magistrate or Police-officer.

disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

This section applies to the police in the towns of Calcutta and Bombay.

128. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a Police-station, whether within or without the Presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a volunteer enrolled under the Indian Volunteers Act, 1869, and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

130. When a Magistrate determines to disperse any such assembly by military force, he may require any Commissioned or Non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869, to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

Every such officer shall obey such requisition in such manner as he thinks fit; but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any Commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but, if while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

132. No prosecution against any Magistrate, Military officer, Police-officer, soldier or volunteer for any act purporting to be done under this chapter shall be instituted in any Criminal Court, except with the sanction of the Governor General in Council; and

(a) no Magistrate or Police-officer acting under this chapter in good faith,

(b) no officer acting under section 131 in good faith,

(c) no person doing any act in good faith in compliance with a requisition under section 128 or section 130, and

(d) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which under military law he was bound to obey,

shall be deemed to have thereby committed an offence.

CHAPTER X.

PUBLIC NUISANCES.

133. Whenever a District Magistrate, a Sub-divisional Magistrate or, when empowered by the Local Government in this behalf, a Magistrate of the first class, considers, on receiving a report or other information and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed or prohibited, or

that the construction of any building, or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair or support is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,—

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, substance, tank, well or excavation, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to suppress or remove such trade or occupation; or
to remove such goods or merchandise; or
to prevent or stop the construction of such building; or
to remove, repair or support it; or
to alter the disposal of such substance; or
to fence such tank, well or excavation, as the case may be; or
to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner herein-after provided.

No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

EXPLANATION.—A "public place" includes also property belonging to the State, camping grounds, and grounds left unoccupied for sanitary and recreative purposes.

134. The order shall, if practicable, be served on the person against whom it is made in manner herein provided for service of a summons.

If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

135. The person against whom such order is made shall—

(a) perform, within the time specified in the order, the act directed thereby; or
(b) appear in accordance with such order, and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code; and the order shall be made absolute.

137. If he appears and shows cause against the order, the Magistrate shall take evidence in the matter.

If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

If the Magistrate is not so satisfied, the order shall be made absolute.

138. On receiving an application under section 135 to appoint a jury, the Magistrate shall—

(a) forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(b) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(c) fix a time within which they are to return their verdict.

139. If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

In other cases, no further proceedings shall be taken.

140. When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

No suit shall lie in respect of anything done in good faith under this section.

141. If the applicant by neglect or otherwise prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

142. If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public,

Procedure on failure to appoint jury or omission to return verdict.

Injunction pending inquiry.

42

he may, whether a jury is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury.

In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

143. A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.

Magistrate may pro-
hibit repetition or con-
tinuance of public nui-
sances.

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE.

144. In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or of any other Magistrate specially empowered by the Local Government or the District Magistrate to act under this section, immediate prevention or speedy remedy is desirable,

Power to issue order
absolute at once in urgent
cases of nuisance.

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession, or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, or danger to human life, health or safety, or a riot or an affray.

An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

Any Magistrate may rescind or alter any order made under this section by himself or any Magistrate subordinate to him or by his predecessor in office.

No order under this section shall remain in force for more than two months from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs.

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

145. Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any tangible immoveable property, or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court, in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

Procedure where dis-
pute concerning land,
&c., is likely to cause
breach of peace.

The Magistrate shall then, without reference to Inquiry as to possession, the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties is then in such possession of the said subject.

If the Magistrate decides that one of the parties is then in such possession of the said subject, he shall issue an order declaring such party to be entitled to retain possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction.

Nothing in this section shall preclude any party so required to attend from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed.

146. If the Magistrate decides that none of the parties is then in such possession, or is unable to satisfy himself as to which of them is then in such possession, of the subject of dispute, he may attach it until a competent Civil Court has determined the rights of the parties thereto, or the person entitled to possession thereof.

Power to attach sub-
ject of dispute.

147. Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right to do or prevent the doing of anything in or upon any tangible immoveable property situate within the local limits of his jurisdiction, he may inquire into the matter; and may, if it appears to him that such right exists, make an order permitting such thing to be done, or direct-

Disputes concerning
easements, &c.

ing that such thing shall not be done, as the case may be, until the person objecting to such thing being done or claiming that such thing may be done obtains the decision of a competent Civil Court adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be:

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry; or, where the right is exercisable only at particular seasons, unless the right has been exercised during the season next before such institution.

148. Whenever a local inquiry is necessary for the purposes of this chapter, any District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions consistent with the law for the time being in force as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

The report of the person so deputed may be read as evidence in the case.

When any costs have been incurred by any party to a proceeding under this chapter for witnesses' or pleaders' fees, or both, the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. All costs so directed to be paid may be recovered as if they were fines.

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

149. Every Police-officer may interpose for the purpose of preventing, and shall to the best of his ability prevent, the commission of any cognizable offence.

150. Every Police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the Police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

151. A Police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

152. A Police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public land-mark, or buoy or other mark used for navigation.

153. Any officer in charge of a Police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures, or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

154. Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a Police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

155. When information is given to an officer in charge of a Police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

No Police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

Any Police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a Police-station may exercise in a cognizable case.

156. Any officer in charge of a Police-station may, without the order of a Magistrate, investigate any cognizable case which a Court

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having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

No proceeding of a Police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

157. If, from information received or otherwise, an officer in charge of a Police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case and to take such measures as may be necessary for the discovery and arrest of the offender:

Provided as follows:—

(a) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a Police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot:

(b) if it appear to the officer in charge of a Police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

In each of the cases mentioned in clauses (a) and (b), the officer in charge of the Police-station shall state in his said report his reasons for not fully complying with the requirements of the first paragraph of this section.

158. Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of police as the Local Government, by general or special order, appoints in that behalf.

Such superior officer may give such instructions to the officer in charge of the Police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

159. Such Magistrate, on receiving such report, may, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold an investigation or preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

160. Any Police-officer making an investigation under this chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

161. Any Police-officer making an investigation under this chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined.

Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

162. No statement, other than a dying declaration, made by any person to a Police-officer in the course of an investigation under this chapter shall, if reduced to writing, be signed by the person making it, or be used as evidence against the accused.

Nothing in this section shall be deemed to affect the provisions of section 27 of the Indian Evidence Act, 1872.

163. No Police-officer or person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24.

But no Police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this chapter any statement which he may be disposed to make of his own free will.

164. Any Magistrate not being a Police-officer may record any statement or confession made to him in the course of an investigation under this chapter, or at any time afterwards before the commencement of the inquiry or trial.

Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is in his opinion best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

No Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and when he records any confession he shall make

a memorandum at the foot of such record to the following effect:—

“I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

“(Signed) A. B.,
“Magistrate.”

165. Whenever an officer in charge of a Police-station, or a Police-officer making an investigation, considers that the production of any document or other thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such document or other thing as directed in the summons or order, or when such document or other thing is not known to be in the possession of any person, such officer may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

Such officer shall, if practicable, conduct the search in person.

If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or other thing for which search is to be made, and the place to be searched; and such subordinate officer may thereupon search for such thing in such place.

The provisions of this Code as to search-warrants shall, so far as may be, apply to a search made under this section.

166. An officer in charge of a Police-station may require an officer in charge of another Police-station, whether in the same or a different District, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

167. Whenever it appears that any investigation under this chapter cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation is well-founded, the officer in charge of the Police-station shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary here-

inafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

If such order be given by a Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

168. When any subordinate Police-officer has made any investigation under this chapter, he shall report the result of such investigation to the officer in charge of the Police-station.

169. If, upon an investigation under this chapter, it appears to the officer in charge of the Police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report and to try the accused or commit him for trial.

170. If, upon an investigation under this chapter, it appears to the officer in charge of the Police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial; or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

When the officer in charge of a Police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant, if any, and so

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many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

If the Court of the District Magistrate or Sub-divisional Magistrate be mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference be given to such complainant or persons.

The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a Police-officer,

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the Police-station may forward him under custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. Every Police-officer making an investigation under this chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but if they are used by the Police-officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such Police-officer, the provisions of the Indian Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply.

173. Every investigation under this chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the Police-station shall forward to a Magistrate empowered to take cognizance of the offence on a police report a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties.

Where a superior officer of police has been appointed under section 158, the report shall be submitted through him, and he may, pending the orders of the Magistrate, direct the officer in charge of the Police-station to make further investigation.

Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

174. Every officer in charge of a Police-station, Police to inquire and on receiving information that report on suicide, &c. a person—

- (a) has committed suicide, or
- (b) has been killed by another, or by an animal, or by machinery, or by an accident, or
- (c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

The report shall be signed by such Police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

When there is any doubt regarding the cause of death, or when for any other reason the Police-officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other medical officer appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such

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putrefaction on the road as would render such examination useless.

In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the Head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

The following Magistrates are empowered to hold inquests; namely, any District Magistrate or Sub-divisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

175. An officer in charge of a Police-station may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the Police-officer to attend a Magistrate's Court.

176. When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (a), (b) and (c), any Magistrate so empowered may, hold an inquiry into the cause of death, either instead of, or in addition to, the investigation held by the Police-officer; and, if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed, according to the circumstances of the case.

Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

PART VI. PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

178. Notwithstanding anything contained in section 177, the Local Government may direct that any cases or class of cases committed for trial in any district may be tried in any Sessions Division:

Provided that such direction be not repugnant to any direction previously issued under the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, or under this Code, section 523.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(a) A is wounded within the local limits of the jurisdiction of Court X and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried either by X or Z.

(b) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(c) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

180. When an act is an offence by reason of its relation to any other act which is also an offence, or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations.

(a) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

181. The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits,

Being a thug or belonging to a gang of dacoits, escape from custody, &c.

or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received by the accused person, or the offence was committed.

The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief or by any person who receives or retains the same knowing or having reason to believe it to be stolen.

Place of inquiry or trial where scene of offence is uncertain,

or not in one district only ;

or where offence is continuing,

or consists of several acts.

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

184. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post-office and Arms Acts, or Arms and Ammunition may be inquired into or tried in a Presidency-town, whether the offence is stated to have been committed within such town or not: Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

185. Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this chapter be inquired into or tried, the High Court within the local limits of whose appellate criminal jurisdiction the offender actually is may decide by which Court the offence shall be inquired into or tried.

In British Burma, when the offender is an European British subject, the Recorder of Rangoon,

and in all other cases the Judicial Commissioner, shall for the purposes of this section be deemed to be the High Court.

186. When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or, if he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India), an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinafter provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent, or bound to appear, the case shall be reported for the orders of the High Court.

187. If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police-officer executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

188. When an European British subject commits an offence in the dominions of a Prince or State in India in alliance with Her Majesty, or

when a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there be one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in British India:

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1879, in respect of the same offence in any territory beyond the limits of British India.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Political Agent to certify fitness of inquiry into charge. shall be inquired into in British India unless the Political Agent, if there be one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in British India:

190. In sections 188 and 189 the expression "Political Agent" means and includes—

(a) the principal officer representing the British Indian Government in any territory beyond the limits of British India;

(b) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under the Foreign Jurisdiction and Extradition Act, 1879, for any territory not forming part of British India.

B.—Conditions requisite for Initiation of Proceedings.

191. Except as hereinafter provided, any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a police report of such facts;

(c) upon information received from any person other than a Police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

The Local Government, or the District Magistrate subject to the general or special orders of the Local Government, may empower any Magistrate to take cognizance under clause (a) or clause (b)

of offences for which he may try or commit for trial.

The Local Government may empower any Magistrate of the first or second class to take cognizance under clause (c) of offences for which he may try or commit for trial.

192. Any District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him.

Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case, to transfer it for inquiry or trial to any otherspecified Magistrate in his District who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

193. Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction, unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

Additional Sessions Judges and Joint Sessions Judges shall try such cases only as the Local Government by general or special order directs them to try, or as the Sessions Judge of the Division makes over to them for trial.

Assistant Sessions Judges shall try such cases only as the Sessions Judge of the Division by general or special order makes over to them for trial.

194. The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the twenty-fourth and twenty-fifth of Victoria, chapter 104.

195. No Court shall take cognizance—

(a) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, except with the previous sanction, or on the complaint, of the public servant concerned, or of some public servant to whom he is subordinate;

(b) of any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the same Code, when such offence is committed in, or in relation to, any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate;

(c) of any offence described in section 463, or punishable under section 471, 475 or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document given in evidence in such proceeding, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed.

When sanction is given in respect of any offence referred to in this section, the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.

Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate; and no such sanction shall remain in force for more than six months from the date on which it was given.

For the purposes of this section, every Court, other than a Court of Small Causes, shall be deemed to be subordinate only to the Court to which appeals from the former Court ordinarily lie.

The Courts of Small Causes in the Presidency-towns shall be deemed to be subordinate to the High Court, and every other Court of Small Causes shall be deemed to be subordinate to the Court of Session for the Sessions Division within which such Court is situate.

196. No Court shall take cognizance of any offence punishable under Chapter VI of the Indian Penal Code, except section 127, or punishable under section 294A of the same Code, unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf.

197. When any Judge, or any public servant not removable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant of any offence, no Court shall take cognizance of such offence, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or

public servant is subordinate, and whose power to give such sanction has not been limited by such Government.

Such Government may determine the person by whom, and the manner in which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held.

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of such woman on his behalf at the time when such offence was committed.

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

200. A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate:

Provided as follows—

(a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192:

(b) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing:

(c) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

201. If the complaint has been made in writing and the Magistrate is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper tribunal with an endorsement to that effect.

202. If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to

Postponement of issue of process.

Procedure by Magistrate not competent to take cognizance of the case.

Examination of complainant.

Power of Government as to prosecution.

Prosecution for breach of contract, defamation and offences against marriage.

Prosecution for adultery or enticing a married woman.

Prosecution of Judges and public servants.

time authorize in this behalf, or any Magistrate of the first or second class, sees reason to distrust the truth of a complaint of an offence of which he is authorized to take cognizance, he may, when the complainant has been examined, record his reasons for distrusting the truth of the complaint, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a Police-officer, or by such other person, not being a Magistrate or Police-officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

If such investigation is made by some person not being a Magistrate or a Police-officer, he shall exercise all the powers conferred by this Code on an officer in charge of a Police-station, except that he shall not have power to arrest without warrant.

This section applies to the police in the towns of Calcutta and Bombay.

203. The Magistrate before whom a complaint is made or to whom it has been transferred may dismiss the complaint if, after examining the complainant and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

204. If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding and the case appears to be one in which according to the fourth column of the second schedule a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which according to that column a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or some other Magistrate having jurisdiction.

Nothing in this section shall be deemed to affect the provisions of section 90.

205. Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

206. Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, Magistrate of the first class or any Magistrate empowered in this behalf by the Local Government may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

But save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court.

208. The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

209. When the evidence referred to in section 208, paragraphs 1 and 2, has been taken, and he has examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

210. When, upon such evidence being taken and such examination (if any) being made, the Magistrate finds that there are sufficient grounds for committing the accused for trial, he

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shall frame a charge under his hand, declaring with what offence the accused is charged.

As soon as the charge has been framed, it shall be read and explained to the accused and a copy thereof shall, if he so requires, be given to him free of cost.

211. The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

The Magistrate may in his discretion allow the accused to give in any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

212. The Magistrate may in his discretion summon and examine any witness named in any list given in to him under section 211.

213. When the accused on being required to give in a list under section 211 has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

214. If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence conjointly with an European British subject who is about to be committed for trial, or to be tried, before the High Court on a similar charge arising out of the same transaction, and the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall commit him for trial before the High Court, and not before the Court of Session.

215. A commitment once made under section 213 or section 214 by a competent Magistrate can be quashed by the High Court only, and only on a point of law.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list as have not appeared before himself, to appear before the Court to which the accused has been committed:

Provided that where the accused has been committed to the High Court, the Magistrate may in his discretion leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly:

Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness.

217. Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary, and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court, to prosecute or to give evidence, as the case may be.

If any complainant or witness refuses to attend before the Court of Session or High Court, or to execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

218. When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

The Charge.

The Charge.

When the commitment is made to the High Court and any part of the English translation to be forwarded to High Court. English translation of such part shall be forwarded with the record.

219. The Magistrate may summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused, by warrant, to custody.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

221. Every charge under this Code shall state the offence with which the accused is charged.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

In the Presidency-towns the charge shall be written in English; elsewhere it shall be written either in English or in the language of the Court.

If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date and

place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed.

Illustrations.

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception 1, one or other of the three provisos to that exception applied to it.

(b) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(d) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

222. The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(a) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(d) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(e) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

Illustrations.

(a) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d) A is charged with the murder of Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge, or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

227. Any Court may alter any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

Every such alteration shall be read and explained to the accused.

228. If the charge framed or alteration made under section 226 or section 227 is such that the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may in its discretion, after such charge or alteration has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

229. If the new or altered charge is such that the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

230. If the offence stated in the new or altered charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

231. Whenever a charge is altered by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration, any witness who may have been examined.

232. If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

Joinder of Charges.

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

234. When a person is accused of more offences than one of the same kind, committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code, or of any special or local law.

235. I.—If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with and tried at one trial for each of such offences.

III.—If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with and tried at one trial for the offence constituted by such acts when combined, or for any offence constituted by any one, or more, of such acts.

Nothing contained in this section shall affect the Indian Penal Code, section 71.

Illustrations

to paragraph I—

(a) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and tried for, offences under sections 225 and 333 of the Indian Penal Code.

(b) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.

(c) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(d) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(e) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(f) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code.

(g) A, with six others, commits the offences of rioting, grievous hurt, and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code.

(h) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in Illustrations (a) to (h) respectively may be tried at the same time.

to paragraph II—

(i) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code.

(j) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code.

(l) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code.

to paragraph III—

(m) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code.

236. If a single act or series of acts is of such a nature that it is doubtful

Where it is doubtful what offence has been committed, which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.